



Australian Government

National Mental Health Commission

# NATIONAL MENTAL HEALTH COMMISSION

## ENTERPRISE AGREEMENT

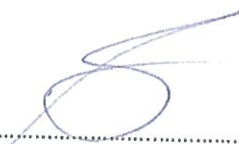
2017 – 2020

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## FORMAL ACCEPTANCE OF THE AGREEMENT

By signing below, the parties to the Agreement signify their acceptance of its terms and conditions.

### Employer

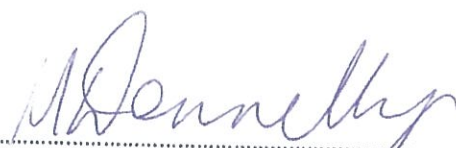
  
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**Dr Peggy Brown**  
Chief Executive Officer  
National Mental Health Commission

12/12/2016  
.....  
Date

Address: Level 12, 6 O'Connell Street Sydney NSW 2000

### Other

  
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**Melissa Donnelly**  
Deputy Secretary  
Community and Public Sector Union (CPSU)

15/12/16  
.....  
Date

Address: 5/191-199 Thomas Street, Haymarket NSW 2000

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## PART A – TECHNICAL AND GENERAL MATTERS

### 1. Title

- 1.1 This Agreement is called the National Mental Health Commission Enterprise Agreement 2017–2020.
- 1.2 The Chief Executive Officer (CEO) may delegate to or authorise a person to perform any of the CEO's powers or functions under this Agreement.

### 2. Purpose

- 2.1 The purpose of this Agreement is to outline the terms and conditions of employment for employees covered by this Agreement.

### 3. Employees covered and parties bound

- 3.1 This Agreement covers all ongoing and non-ongoing employees of the National Mental Health Commission (the Commission) except members of the Senior Executive Service and their equivalents.

### 4. Operation of the Agreement

- 4.1 This Agreement will commence seven days after approval by the Fair Work Commission and nominally expires three years after commencement.
- 4.2 The operation of this Agreement is supported by policies, procedures and guidelines. If there is any inconsistency between the policies, procedures and guidelines and the terms of this Agreement, the express terms of this Agreement will prevail. The policies, procedures and guidelines referred to do not form part of this Agreement.
- 4.3 Prior to a policy being amended or introduced, the Commission will make the policy available for comment and feedback for a maximum period of two weeks. The Commission will consider any comments or feedback received in relation to the policy prior to finalisation.

### 5. Relationship to other awards, agreements and legislation

- 5.1 Employees may also be subject to the provisions of various Acts (along with regulations, directions, rules or instruments made under those Acts).

### 6. Working together - consultation arrangements

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

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## 7. Major change

- 7.1 For a major change referred to in 6.1(a):
- a. the employer must notify the relevant employees of the decision to introduce the major change; and
  - b. subclauses 7.2 to 7.8 apply.
- 7.2 The relevant employees may appoint a representative for the purposes of the procedures in this term if:
- a. a relevant employee appoints, or relevant employees appoint, a representative for the purposes of consultation; and
  - b. the employee or employees advise the Commission of the identity of the representative
- the Commission must recognise the representative.
- 7.3 As soon as practicable after making its decision, the Commission must:
- a. discuss with the relevant employees:
    - (i) the introduction of the change; and
    - (ii) the effect the change is likely to have on the employees; and
    - (iii) measures the Commission is taking to avert or mitigate the adverse effect of the change on the employees; and
  - b. for the purposes of the discussion — provide, in writing, to the relevant employees:
    - (i) all relevant information about the change including the nature of the change proposed;
    - (ii) information about the expected effects of the change on the employees; and
    - (iii) any other matters likely to affect the employees.
- 7.4 However, the Commission is not required to disclose confidential or commercially sensitive information to the relevant employees.
- 7.5 The Commission must give prompt and genuine consideration to matters raised about the major change by the relevant employees.
- 7.6 If a term in this Agreement provides for a major change to production, program, organisation, structure or technology in relation to the enterprise of the employer, the requirements set out in clauses 7.1a and 7.2 and 7.3 are taken not to apply.
- 7.7 In this term, a major change is likely to have a significant effect on employees if it results in:

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

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

8.1 For a change referred to in clause 6.1b:

- a. the employer must notify the relevant employees of the proposed change; and
- b. subclauses 8.2 to 8.6 apply.

8.2 The relevant employees may appoint a representative for the purposes of the procedures in this term if:

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

The employer must recognise the representative.

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

- a. discuss with the relevant employees the introduction of the change; and for the purposes of the discussion, provide to the relevant employees:
  - (i) all relevant information about the change, including the nature of the change; and
  - (ii) information about what the employer reasonably believes will be the effects of the change on the employees; and
  - (iii) provide information about any other matters that the employer reasonably believes are likely to affect the employees; and
- b. 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).

8.4 However, the employer is not required to disclose confidential or commercially sensitive information to the relevant employees.



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8.5 The employer must give prompt and genuine consideration to matters raised about the change by the relevant employees.

8.6 In this term: "relevant employees" means the employees who may be affected by a change referred to in Clauses 6 to 8.

#### **9. General staff consultation**

9.1 These provisions are intended to operate in addition to and are not intended to impact on the operation of the consultation provisions set out in clauses 6 to 8 of this Agreement.

9.2 The Commission commits to consult with employees on matters relating to the operation of the Agreement.

9.3 The key mechanisms for this consultation are:

- a. regular staff meetings; and
- b. direct discussions with staff.

#### **10. Employee representatives**

10.1 The parties recognise that employees are free to choose to join or not to join a union. Irrespective of that choice, employees will not be disadvantaged or discriminated against in respect of their employment under this Agreement. Employees who choose to be members of a union have the right to have their industrial interests represented by that union subject to the terms of this Agreement and relevant industrial legislation.

10.2 The role of employee representatives, which may include union delegates, will be respected and facilitated in accordance with the *Fair Work Act 2009*.

#### **11. Dispute resolution**

11.1 If a dispute relates to a matter arising under this Agreement, or National Employment Standards, this term sets out procedures to settle the dispute.

11.2 The Commission or an employee who is a party to the dispute may appoint a representative to accompany and/or represent them for the purposes of this term.

11.3 In the first instance, the parties to the dispute must try to resolve the dispute at the workplace level, by discussions between the employee and relevant supervisors, management and/or the CEO.

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

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

- a. Fair Work Commission will first attempt to resolve the dispute as it considers appropriate, including by mediation, conciliation, expressing an opinion or making a recommendation; and



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b. if the Fair Work Commission is unable to resolve the dispute at the first stage, the Fair Work Commission may then:

- (i) arbitrate the dispute; and
- (ii) make a determination that is binding on the parties.

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

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

11.7 While the parties are trying to resolve the dispute using the procedures in this term:

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

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

## **12. Individual flexibility arrangements**

12.1 The CEO and an employee covered by this Agreement may agree to make an individual flexibility arrangement to vary the effect of any terms of this Agreement, where the arrangement meets the genuine needs of the employee and the Commission. The arrangement must be genuinely agreed to by the CEO and the employee.

12.2 The CEO must ensure that an individual flexibility arrangement agreed to under this clause:

- a. is about permitted matters under section 172 of the *Fair Work Act 2009*
- b. does not include unlawful terms under section 194 of the *Fair Work Act 2009*
- c. includes the name of the employer and the employee
- d. results in the employee being better off overall than if no arrangement was agreed to

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- e. is in writing and includes details of:
    - (i) the terms of this Agreement that will be varied by the arrangement; and
    - (ii) how the arrangement will vary the effect of the terms; and
    - (iii) how the employee will be better off overall in relation to the terms and conditions of his or her employment as a result of the arrangement; and
    - (iv) states the day on which the arrangement commences and, where applicable, when the arrangement ceases.
  - f. is signed by both the employee and the CEO and, if the employee is under 18, is signed by their parent or guardian
  - g. The CEO must give the employee a copy of the individual flexibility arrangement within fourteen (14) days after it is agreed to.
  - h. The CEO or the employee may terminate the individual flexibility arrangement by giving no more than twenty eight (28) days written notice to the other party to the arrangement or if the CEO and the employee agree in writing — at any time.

## PART B – OUR WORKPLACE

### 13. Workplace Culture

- 13.1. The Commission is an Agency that consistent with the APS Values and Code of Conduct values fairness, equity and diversity and a workplace free from bullying and harassment

### 14. Employee Assistance Program

- 14.1. A confidential, professional counselling service is available to help employees resolve personal or work related problems. Details of how to access the Employee Assistance Program (EAP) will be provided to employees.

### 15. Support for carers

- 15.1 The CEO may approve reimbursement of reasonable, unavoidable, additional costs associated with the care of a family member or dependant where an employee is required to travel away from his or her normal work location for business purposes or is directed to work outside his or her normal pattern of hours. The employee must advise his or her supervisor in advance that costs may be incurred.

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## **16. Capability development**

- 16.1 The Commission is committed to maintaining a learning organisation, and supports learning and development opportunities for employees. Employee needs will be balanced against organisational requirements and availability of opportunities. It is expected that Commission employees and their managers will identify learning and development needs and opportunities as part of their performance agreement.

## **17. Study Assistance**

- 17.1 An employee undertaking formal study which may include paid leave of up to six (6) hours per week, (12) hours for Aboriginal and Torres Strait Islander employees), unpaid leave, and/or reimbursement of costs for course fees up to \$7,000 per calendar year.
- 17.2 Employees, who have been granted leave without pay (miscellaneous leave) to undertake full-time post-graduate study in a field directly relevant to the Commission, may be eligible to receive upfront financial study assistance up to \$7,000 per calendar year towards the cost of the study.
- 17.3 Any employee receiving upfront financial assistance will be required to enter into a return of service agreement, which enables the Commission to seek reimbursement of the upfront payment on a sliding scale if the employee does not return to service or leaves within 12 months of recommencing within the Commission.
- 17.4 The Commission may also, subject to approval, cover fees for Aboriginal and Torres Strait Islander employees, for study to obtain entry into a tertiary institution and a qualification at a tertiary level.

## **18. Performance management**

- 18.1 All employees are required to have a current performance agreement, except non-ongoing employees engaged for less than six (6) months.
- 18.2 All employees are required to participate in the Performance Management System.
- 18.3 Where underperformance is identified, the Commission will work with affected employees and their managers to attain and sustain the standards required.
- 18.4 If the employee's performance remains unsatisfactory possible actions include reduction in classification, reassignment of duties or termination of employment.

# **PART C – EMPLOYMENT CONDITIONS**

## **19. Flexible Working Arrangements**

- 19.1 The Commission recognises that employees need to balance work and private lives and managers are committed to ensuring that their employees are able to access employment terms and conditions (including the utilisation of flextime credits, access to time off in lieu (TOIL) and payment for overtime), where eligible. It is the responsibility of individual employees to consult their managers in accessing these terms and conditions and to be aware that operational requirements may limit access to some conditions at certain times.

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- 19.2 Managers and employees recognise and accept their mutual responsibility to integrate the management of working hours and leave planning, including flexible working arrangements, into the overall approach of business and workforce planning.

## **20. Hours of Work**

- 20.1 Ordinary hours of work for full-time employees are 152 hours per settlement period. This equates to a standard day of 7 hours and 36 minutes. An employee's ordinary hours of work will be averaged over a twelve (12) month averaging period. This means that an employee's average ordinary hours of work will be calculated at any particular time by calculating the average during the twelve (12) month period immediately preceding that time.
- 20.2 The default span of hours during which an employee may work his or her ordinary hours is 7.00am to 7.00pm Monday to Friday.
- 20.3 The pattern of hours by which an employee will work his or her ordinary hours should be agreed with his or her supervisor.
- 20.4 An employee at or below the APS 6 level must record his or her attendance.
- 20.5 Employees will not normally be required to work for more than 10 hours on any one day and should not work more than five (5) consecutive hours without taking a break of at least 30 minutes.
- 20.6 Standard attendance hours are 7 hours and 36 minutes from 8.30am to 12.30pm and 1.30pm to 5.06pm Monday to Friday. Standard attendance hours will apply:
- (i) if an employee and his or her supervisor cannot agree on a pattern of hours; or
  - (ii) if an employee's supervisor considers that the employee's attendance is unsatisfactory or that the employee is misusing flextime.
- 20.7 Where an employee is required to work at the Commission's premises more than ten (10) hours on any one day with limited notice, the employee will be provided with a meal at the Commission's expense.

## **21. APS level employees: flextime and overtime**

- 21.1 Flextime is available to all APS level employees, including part-time employees.
- 21.2 Employees accumulate flextime within the Bandwidth.
- 21.3 The Commission's flextime arrangements include the following features:
- When an employee works more than their standard hours they will accumulate a flextime credit, and
  - when an employee works less than their standard hours they will incur a flextime debit;
  - flextime will be credited or debited on a one-for-one basis (i.e. one hour worked will result in one hour of flextime credit);

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- an employee may reduce their flextime credit (or incur a flextime debit) by taking a flextime absence, which is an absence from the workplace during standard working hours requested in advance by the employee and approved by the employee's supervisor;
  - a flextime absence may be taken in part or full days up to a maximum of five (5) consecutive days, subject to approval by the manager and operational requirements;
  - an employee may ordinarily carry over a maximum of 38 hours as a flextime credit, or up to 7 hours 36 minutes flextime debit, into the next settlement period;
  - by reaching an explicit agreement with the CEO, an employee can carry forward a flextime credit greater than 38 hours but must reduce the excess credit to 38 hours within four (4) weeks;
  - where excess flex credits are not reduced below 38 hours within four (4) weeks and no agreement has been reached in accordance with subclause 18.3, the employee will be directed by the CEO to access flextime until the balance is below 38 hours;
  - a settlement period is a four (4) week period;
  - where an employee maintains a flextime debit balance in excess of 7 hours 36 minutes for four (4) weeks, the employee will be required to take any additional debits as leave without pay until the debit balance is reduced to 7 hours 36 minutes;
  - an employee with a flextime credit will where possible be allowed to use all of their accrued flextime credits before ceasing their employment, subject to approval by the manager and operational requirements.

21.4 An APS level employee who is required by the CEO to work outside their agreed span of hours (the default span of hours being 7.00am to 7.00pm Monday to Friday) or on a public holiday is eligible to receive extra duty payment (overtime) or where agreed, time off in lieu of overtime payment, see Attachment 2.

21.5 Where an employee is directed to work outside the bandwidth, the employee will be entitled to an eight (8) hour break plus reasonable travelling time before commencing work again, and the employee's manager should direct the employee to take a break of eight (8) hours. If the break occurs during standard working hours, then the employee will receive their normal salary during that period.

21.6 Subclause 21.5 does not apply to an employee who is directed to work outside the bandwidth for a period of two (2) hours or less and the period of work commences no earlier than two (2) hours before the beginning of the bandwidth.

21.7 Where a break as described in subclause 21.5 above is not possible due to operational requirements, the employee will be paid for subsequent periods of work at the applicable overtime rate until the employee has taken an eight (8) hour break.



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- 21.8 An employee cannot claim flex and also receive an extra duty payment in respect of the same hours. An employee should have a break of at least eight (8) hours between finishing the extra duty and commencing work again.

## **22. Executive Level employees: time off in lieu (TOIL), flexible hours and overtime**

- 22.1 Executive Level employees are able to work flexible hours. This means that variations in attendance times and short-term absences including full days may be agreed in advance with the CEO or manager.
- 22.2 The arrangements in relation to flexible hours will be designed and agreed by the manager and Executive Level employee taking account of the need to balance the achievement of organisational outcomes and individuals' personal commitments.
- 22.3 Executive Level employees and their managers are required to work together to manage workloads and working hours. Time off in lieu (TOIL) should be discussed between a manager and Executive Level employee where an employee is required to sustain a working pattern greater than 8.5 hours during the normal working week, or works on a weekend, public holiday or closedown, at the request of the manager.
- 22.4 TOIL will be available for Executive Level employees. TOIL should be taken as soon as practical after the hours worked, subject to operational requirements.
- 22.5 Where an Executive Level employee undertakes significant additional productive effort which involves working in excess of ordinary hours for sustained periods the manager and employee are required to agree arrangements for reasonable time off to recognise the additional effort. Reasonable time off for Executive Level employees is not on an hour for hour basis.
- 22.6 Executive level employees will only be eligible to receive overtime payments in exceptional circumstances with the approval of the CEO.
- 22.7 Executive Level employees should not commence work on any day without having at least eight hours plus reasonable travelling time minimum break from the previous day's work, without specific approval from the CEO or delegate.
- 22.8 Regardless of the bandwidth, Executive Level employees are required to break for at least 30 minutes after five (5) hours of continuous work.

## **23. Part-time employment and job sharing**

- 23.1 A part-time employee is one whose ordinary hours of work are less than 152 hours over the settlement period. Employees who job share will be classed as part-time. All part-time and job sharing work arrangements will be subject to agreement in writing. Whilst there is no prescribed limit on the duration, in this Agreement, there will be a formal review on an annual basis between the employee and the CEO. Remuneration and other employment conditions, except for long service leave are calculated on a pro-rata basis. For expense related allowances and reimbursements part-time employees receive the same amount as full-time employees.
- 23.2 Requests for part time working arrangements will be considered by the CEO on a case by case basis and in light of operational requirements.

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- 23.3 A part-time employee will normally be required to work at least three (3) consecutive hours on his or her nominated workdays. The pattern of working hours and any variations to the arrangements will be agreed in writing.
- 23.4 A part-time employee will revert to full-time employment at the end of the agreed period, unless a renewal is approved. A part-time employee may revert to full-time at any time if the CEO agrees.

#### **24. Home based work**

- 24.1 The CEO may agree to an employee working from home. The Commission will meet the cost of supplying and maintaining necessary equipment and materials.

#### **25. Car Parking**

- 25.1 If during the life of this Agreement, the Commission incurs a Fringe Benefit Taxation (FBT) liability due to the introduction of paid car parking, the Commission will recover, on a 'user pays' basis, the total FBT costs incurred in respect of employees covered by this Agreement who secure under building car parks.

### **PART D – LEAVE**

#### **26. Portability of leave**

- 26.1 Where an employee moves (including on promotion or for an agreed period) from another agency where they were an ongoing APS employee, the employee's unused accrued annual leave and personal/carers leave (however described) will be transferred, provided there is no break in continuity of service.
- 26.2 Where an employee is engaged as either an ongoing employee and immediately prior to the engagement the person was employed as a non-ongoing employee, or engaged as a non-ongoing APS employee immediately following a period of ongoing employment in the Parliamentary Service or the ACT Government Service, the CEO may, at the employee's request, recognise any accrued annual leave and personal/carers leave (however described), provided there is no break in continuity of service. Any recognised annual leave excludes any accrued leave paid out on separation.
- 26.3 If an employee joins the Commission from an employer staffed under the *Public Service Act 1999*, the *Parliamentary Service Act 1999* or from the ACT Government Service, accrued annual leave and personal/carer's leave credits will be transferred or recognised, based on hours and minutes, provided there is no break in continuity of service.
- 26.4 Use of these accrued leave credits and future entitlements is in accordance with this Agreement.

#### **27. Annual leave**

- 27.1 A full-time employee is entitled to twenty (20) days paid annual leave per completed year of service. Annual leave accrues progressively. Annual leave accrues on a pro-rata basis for part-time employees. Annual leave counts as service for all purposes.



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- 27.2 If more than thirty (30) days leave that is not to count as service for any purpose is taken in a calendar year that whole period of leave will not count towards accrual of annual leave.
  - 27.3 An employee with an accrued annual leave credit of forty (40) days or less may take some or all of his or her annual leave on half pay. Leave taken at half pay will result in annual leave credits being deducted at half the duration. A minimum of five consecutive working days must be taken.
  - 27.4 Where an employee's amount of accrued annual leave is approaching forty (40) days, the employee and the employee's supervisor will seek to agree on a leave management strategy to reduce the amount of accrued annual leave.
  - 27.5 Employees must take 5 days annual leave per calendar year in order to maintain a healthy work life balance.

#### **28. Purchased leave**

28.1 Employees may apply to purchase up to eight (8) weeks (40 days) additional leave per calendar year.

#### **29. Cancelled leave**

- 29.1 If an employee's leave is cancelled without reasonable notice, or he/she is recalled to duty while on leave, the employee will be recredited with the amount of leave cancelled or recalled, and reimbursed for reasonable costs incurred, as determined by the CEO, where costs are not recoverable from another source.
- 29.2 If during a period of annual leave, an employee becomes eligible for prevailing leave that is required by legislation or this Agreement to be granted, the employee will be taken not to be on annual leave for the affected period. This is subject to the employee producing satisfactory evidence. Annual leave will be re-credited to the extent of other leave granted.
- 29.3 An example of such prevalent leave, includes but may not be limited to personal/carer's leave, compassionate leave, maternity leave and community service leave.

#### **30. Christmas close down**

- 30.1 The Commission ceases normal business from the close of business on the last working day before Christmas, with business resuming on the first working day after New Year's Day.
- 30.2 Employees will be provided with time off for the working days between Christmas and New Year's Day and will be paid in accordance with their ordinary hours of work.
- 30.3 An APS level employee who is required to work during the close down period will receive an extra duty payment. An executive level employee will receive an equivalent period of time off in lieu.

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### 31. Public holidays

- 31.1 Employees will be entitled to public holidays in accordance with section 115 of the *Fair Work Act 2009*. An employee and the CEO may agree to substitute any public holiday for a cultural or religious day of significance to the employee. An employee may refuse on reasonable grounds a request to work additional reasonable hours on a public holiday.
- 31.2 Where an employee is on paid personal or annual leave at full or half pay on either or both sides of the public holiday, payment for the public holiday will be made at the employee's full rate of pay.
- 31.3 Where a public holiday falls during a period when an employee is absent on leave (other than annual leave or paid personal/carer's leave) there is no entitlement to receive payment as a public holiday. Payment for that day would be in accordance with the entitlement for that form of leave (e.g. if on long service leave on half pay, payment is on half pay).

### 32. Long service leave

- 32.1 Employees are entitled to long service leave in accordance with the *Long Service Leave (Commonwealth Employees) Act 1976*. The minimum period of absence for which long service leave will be granted is seven (7) calendar days at full pay or fourteen (14) calendar days at half pay. Long service leave is not to be broken by other forms of paid leave unless required by legislation. The CEO will consider applications for long service leave in light of operational requirements.

### 33. Personal/carer's leave

- 33.1 Personal leave and carer's leave may be used when an employee is ill or injured or is required to provide care or support to members of their family, or household because of a personal illness or injury of the member or an unexpected emergency affecting the member.
- 33.2 Ongoing employees will have a paid personal/carer's leave entitlement of eighteen (18) days per year of service, credited in advance on the employee's date of commencement and each year thereafter on the anniversary of the employee's date of commencement in the APS.
- 33.3 Non-ongoing employees will progressively accrue personal/carer's leave credits on the basis of one day for every completed month of service. If a non-ongoing employee continues to be employed after twelve (12) months they will be credited with an additional six (6) days personal leave.
- 33.4 Personal/carer's leave accrues on a pro-rata basis for part-time employees.
- 33.5 If an employee is unexpectedly unable to attend work the employee or his or her representative should make a reasonable effort to notify the relevant supervisor before 9:30am.
- 33.6 If an employee takes more than thirty (30) days leave that does not count as service within a twelve (12) month period, the date of the next personal/carer's leave credit will be deferred by that amount of days.

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- 33.7 An employee will provide a medical certificate or, where it is not practical to provide a medical certificate, a statutory declaration or other supporting evidence acceptable to his/her manager in the following circumstances:
- (i) where the employee is or will be absent on personal leave for three (3) or more consecutive working days, unless the manager informs the employee that such evidence will not be required; or
  - (ii) if the manager has reason to believe that the employee's absence is not consistent with the appropriate use of personal leave.
- 33.8 An employee who takes large or frequent periods of personal leave may be directed to attend a medical examination on fitness for continued duty, to determine whether continued personal leave is justified.
- 33.9 In exceptional situations, and at the CEO's discretion, the CEO may grant an employee who has used all of his or her personal/carer's leave credits additional personal/carer's leave on half pay. The employee must provide supporting evidence.
- 33.10 An employee who is unfit for duty due to a war-caused or defence-caused condition formally accepted by the Department of Veterans' Affairs as determined under relevant legislation is entitled to war service personal leave. The CEO will determine the amount of leave to be granted.
- 33.11 Employees (including casual employees) are entitled to two (2) days unpaid carer's leave for each occasion when a member of the employee's immediate family, or a member of the employee's household, requires care or support because of:
- (i) a personal illness, or personal injury, affecting the member; or
  - (ii) an unexpected emergency affecting the member.
- 33.12 An employee cannot take unpaid carer's leave if the employee could instead take paid personal/carer's leave.

#### **34. Cultural and ceremonial leave for Aboriginal and Torres Strait Islander employees**

- 34.1 To enable Aboriginal and Torres Strait Islander employees to meet obligations placed on them to participate in cultural and ceremonial activities, they may access the following leave, subject to CEO approval:
- (i) up to a total of two (2) days leave with pay each financial year to participate in NAIDOC Week activities or other cultural or ceremonial events;
  - (ii) up to a total of three (3) months leave without pay each financial year to fulfil cultural obligations. This leave will not count as service for any purpose.
- 34.2 Aboriginal and Torres Strait Islander employees may also access personal/carers leave, purchased leave, annual leave, flex and TOIL for ceremonial purposes.
- 34.3 Personal/carers leave must not be taken for the reasons of (i) and (ii) to the extent that it results in less than ten (10) days of an employee's credits per year being available for use for personal injury or illness and caring as provided under the *Fair Work Act 2009*.

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### **35. Miscellaneous leave**

- 35.1 The CEO can approve applications for miscellaneous leave.
- 35.2 Miscellaneous leave may be granted with or without pay and to count as service or not to count as service, for a purpose not provided for elsewhere in this Agreement.
- 35.3 There is no automatic entitlement to miscellaneous leave. Applications are considered subject to the operational requirements on a case by case basis. Appropriate supporting evidence, relevant to the request, is to be provided with the application.
- 35.4 Miscellaneous leave will not be granted where another form of leave is more appropriate, or to allow an employee to try another career.
- 35.5 Miscellaneous leave without pay will not be granted until annual leave credits are exhausted. All annual leave must be taken at full pay prior to any miscellaneous leave without pay.

### **36. Community service leave**

- 36.1 An employee is entitled to paid leave for the purposes of engaging in community service activities including jury service and emergency management activities as defined in the *Fair Work Act 2009*.
- 36.2 In addition to the community service leave referred to in clause 36.1, unpaid leave for community service personnel for emergency services duties encompassing leave for regular training, all emergency services responses, reasonable recovery time and ceremony duties may be approved by the CEO..
- 36.3 An employee is required to give the Commission notice of the absence as soon as practicable, including the expected period of absence.

### **37. Defence reserve leave**

- 37.1 The CEO may grant an employee leave, with or without pay, to enable the employee to fulfil Australian Defence Force (ADF) Reserve and Continuous Service (CFTS) or Cadet Force obligations.
- 37.2 An employee is entitled to ADF Reserve leave with pay, for up to four (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.
- 37.3 During the employee's first year of ADF Reserve service, a further two (2) weeks paid leave may be granted to facilitate participation in additional ADF Reserve training, including induction requirements.
- 37.4 With the exception of the additional two (2) weeks in the first year of service, leave can be accumulated and taken over a period of two years, to enable the employee to undertake training as a member of the ADF Reserves.
- 37.5 Employees are not required to pay their tax free ADF Reserve salary to the Agency in any circumstances.

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- 37.6 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.
  - 37.7 Eligible employees may also apply for annual leave, long service leave, leave without pay, top-up pay or they may use flextime or make up time for the purpose of fulfilling ADF Reserve, CFTS or Cadet Force obligations.
  - 37.8 Employees are to notify supervisors at the earliest opportunity once the dates for ADF Reserve, CFTS or Cadet Force activities are known and/or changed.

### **38. Compassionate leave**

- 38.1 An employee is entitled to paid compassionate leave of three (3) days on each occasion where a member of the employee's immediate family or household contracts or develops an illness or injury that poses a serious threat to his or her life, or dies.
- 38.2 Casual employees are entitled to two (2) days of unpaid compassionate leave for each occasion where a member of the employee's immediate family or household contracts or develops an illness or injury that poses a serious threat to his or her life, or dies.

### **39. Unauthorised absence**

- 39.1 If an employee is absent from work without approval, all pay and other benefits provided under this Agreement will cease to be available until the employee resumes duty, or is granted leave. A period of unauthorised absence does not count as service for any purpose.

## **PART E – PARENTAL LEAVE**

### **40. Parental leave**

- 40.1 An employee who has at least twelve (12) months continuous service in the APS and has or will have responsibility for the care of a child is entitled to unpaid parental leave of up to 52 weeks (12 months) in accordance with the National Employment Standards (NES).
- 40.2 Upon request from the employee, the Commission will agree to an extension of unpaid parental leave for a further period of up to twelve (12) months, immediately following the end of the initial twelve (12) month period.
- 40.3 An employee returning from parental leave who has care of a child can request in writing for flexible work arrangements in the circumstances outlined in section 65 of the *Fair Work Act 2009*.

Approval will be granted unless the flexible work arrangements do not meet operational requirements of the Commission.

- 40.4 On return from parental leave, an employee is entitled to return to:
  - (i) the employee's pre-parental leave position on the same employment and attendance basis prior to the leave; or

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- (ii) if the position no longer exists – an available position for which the employee is qualified and suited nearest in employment status and pay to the pre-parental leave position.

#### **41. Maternity leave**

- 41.1 An eligible employee is entitled up to 52 weeks maternity leave in accordance with the *Maternity Leave (Commonwealth Employees) Act 1973* and/or Division 5 of Part 2-2 of the *Fair Work Act 2009*. The period of 52 weeks is inclusive of any paid leave provided in accordance with the Maternity Leave Act and clause 41.2
- 41.2. An employee who is entitled to paid leave under the *Maternity Leave (Commonwealth Employees) Act 1973* is entitled to an additional two (2) weeks of paid maternity leave under this Agreement.
- 41.3 The CEO will approve spreading the payment for the paid period of maternity leave over a maximum period of twenty eight (28) continuous weeks at half normal pay. Where an employee elects to spread the payment, a maximum of 14 weeks will count as service for any purpose. In accordance with the Maternity Leave Act, any unpaid leave in the first 12 weeks of leave counts as service.

#### **42. Leave for supporting partners**

- 42.1 An employee who is not the primary care giver to a dependent child is entitled to two weeks (10 days) of paid supporting partner's leave immediately following the birth or adoption of the dependent child.
- 42.2 The leave is inclusive of public holidays and can be taken on full pay or the employee may elect to take the leave at half pay. If half pay is taken, a maximum of 10 days will count as service.
- 42.3 An employee may access up to three (3) weeks additional leave on full pay from his or her personal/carer's leave credits immediately following the period of leave taken under subclause 42.1.
- 42.4 Leave must not be taken for the reasons of 42.3 to the extent that it results in less than 10 days' of an employee's credits per year being available for use for personal injury or illness and caring as provided under the *Fair Work Act 2009*.
- 42.5 An employee with twelve (12) months continuous service in the APS who has or will have responsibility for the care of a child, following a period of supporting partners leave, is entitled to a maximum of 52 weeks unpaid leave (not to count as service) from the date of the birth of the dependent child. The maximum period of 52 weeks is inclusive of any leave taken under clauses 42.1, 42.2 and 42.3.

#### **43. Adoption leave**

- 43.1 An employee who has insufficient annual leave credits may take two days unpaid pre-adoption leave to attend interviews or examinations required to obtain approval to adopt a child.
- 43.2 An employee with twelve (12) months continuous service in the APS who is the adoptive parent and primary caregiver of a newly adopted child who:

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- (i) is, or will be, under 16 years at the day of placement, or the expected day of placement;
  - (ii) has not, or will not have, lived continuously with the employee for a period of six months or more as at the day of placement; and
  - (iii) is not a child of the employee or the employee's spouse or de facto partner

is entitled to up to fourteen (14) weeks paid leave from the date of the placement of the child.

44.3 An employee with an entitlement to paid leave may elect to take that leave at half pay. If half pay leave is taken, a maximum of 14 weeks will count as service.

44.4 An employee with twelve (12) months continuous service in the APS who is the adoptive parent and has or will have responsibility for the care of a newly adopted child (as determined by the *Fair Work Act 2009*) is entitled to a maximum of 52 weeks unpaid leave (not to count as service) from the date of the placement of the child. The maximum period of 52 weeks is inclusive of any period of leave taken under clause 43.2.

#### **44. Foster care**

44.1 An employee with twelve (12) months continuous service in the APS who is the primary caregiver of a long term foster child is entitled to up to fourteen (14) weeks paid leave from the date of the placement of the child.

44.2 An employee with an entitlement to paid leave may elect to take that leave at half pay. If half pay is taken, a maximum of 14 weeks will count as service.

44.3 An employee who has twelve (12) months continuous service in the APS and is in a long-term formal fostering arrangement may access up to 52 weeks unpaid leave. The leave is not to count as service.

44.4 The maximum period of 52 weeks is inclusive of any period of leave taken under clause 44.1.

#### **45. Permanent Care Orders**

45.1 An employee who has twelve (12) months continuous service in the APS and is granted custody and guardianship of a child (up to the age of 18) as a result of a permanent care order, and is the primary care giver of the child, will be entitled to up to fourteen (14) weeks paid leave from the date of the placement of the child. Permanent care order leave may be taken at half pay but any period of leave in excess of fourteen (14) weeks will not count as service for any purpose.

45.2 An employee who has twelve (12) months continuous service in the APS and is granted custody and guardianship of a child as a result of a permanent care order and is the primary care giver of the child may access up to 52 weeks unpaid leave. The leave is not to count as service.

45.3 The maximum period of 52 weeks is inclusive of any period of leave taken under clause 45.1.



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## PART F – CLASSIFICATION AND REMUNERATION

### 46. Salary advancement

- 46.1 On 1 July each year, an ongoing employee (excluding Graduates and APS Trainees) who is not already on the maximum pay point in their current substantive APS classification may advance to the next pay point if the employee:
- (i) has in place a performance agreement;
  - (ii) has been at his or her current pay point for at least 3 months; and
  - (iii) received a rating of three (3) (fully effective) or more in the appraisal cycle ending 30 June.
- 46.2 Employees may advance two or more pay points subject to agreement by the CEO and linked to performance outcomes where the employee receives a rating greater than three (3) (fully effective).

### 47. Salary

- 47.1 The salary rates for all classifications are detailed in Attachment 1.
- 47.2 Where an employee's performance is outstanding, the CEO can approve an employee moving from a pay point in a classification to an amount within the Zone of Discretion for that classification.
- 47.3 The salary of eligible employees will increase:
- (i) 2% on the date of commencement of this Agreement;
  - (ii) 2% on 12 months after commencement; and
  - (iii) 2% on 24 months after commencement.
- 47.4 Unless the CEO determines otherwise an employee whose salary prior to commencement of this Agreement exceeds the maximum pay point in the Commission for that classification will be maintained on that salary until it is absorbed by pay increases at the relevant classification level at which time the employee will move to the next pay point immediately above their current salary level.

### 48. Salary on engagement, promotion or movement

- 48.1 A person who is new to the APS or an existing APS employee who is promoted to a job in the Commission will be paid at the minimum pay point of the relevant classification unless the CEO approves payment of a higher salary based on experience, qualifications and skills.
- 48.2 Unless the CEO determines otherwise, an existing APS employee moving to the Commission at the same classification level whose current salary exceeds the maximum pay point in the Commission for that classification may be maintained on that salary until it is absorbed by pay increases at the relevant classification level at which time the employee will move to the next pay point immediately above their current salary level.

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- 48.3 Unless the CEO determines otherwise, an existing APS employee moving to the Commission at the same classification level whose current salary does not match a Commission pay point for that classification and is below the maximum pay point in the Commission for that classification will be paid at the next highest pay point.

#### **49. Graduates**

- 49.1 The CEO can engage a person as a Graduate and approve an appropriate training program
- 49.2 A graduate will be engaged as an ongoing employee at the minimum pay point of the National Mental Health Commission (NMHC) graduate band (APS Level 3 -5).
- 49.3 After six (6) months service, graduates who have received a rating of 3 (fully effective) or more in performance appraisals up to that date will advance to the maximum pay point of the APS Level 3 in the NHMC graduate band.
- 49.4 On completion of their training program graduates will be assessed for advancement within the NHMC graduate band.
- 49.5 Graduates will not be eligible for higher duties allowance during the course of the training program.
- 49.6 Advancement within the broadband may only occur if:
- a. sufficient work is available at the higher classification level;
  - b. the employee has gained the necessary skill and proficiencies to perform duties in accordance with the work level standards for that classification
  - c. the employee is rated as performing at a rating of three (3) (fully effective) or more.

#### **50. Trainee APS employees**

- 50.1 The CEO can engage a person as a Trainee APS.
- 50.2 A Trainee APS employee will undertake a course of training determined by the CEO and be paid a percentage of the rate of pay applying to the minimum pay point of the APS 1 classification level, having regard to the average proportion of time spent in approved training.
- 50.3 Upon successful completion of his or her training requirements a trainee will be paid at the minimum APS 1 pay point.

#### **51. Casual employees**

- 51.1 Casual employees are engaged to perform duties that are irregular or intermittent.
- 51.2 Employees engaged on a casual basis will receive a 20 percent loading in lieu of paid leave (excluding long service leave) and public holidays not ordinarily worked in addition to their hourly rate of salary.

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- 51.3 A casual employee who is rostered to work on a day that falls on a public holiday, as identified in clause 31 of this Agreement, and is not required to perform duties on that day will receive payment for that day at their base rate of pay, including casual loading.

## **52. Supported wage system**

- 52.1 An employee who is affected by a disability may be eligible for consideration under the Supported Wage System; rates are set out in Attachment 4.

## **53. Payment of salary**

- 53.1 An employee will be paid fortnightly in arrears by electronic funds transfer into a financial institution account of the employee's choice. The fortnightly rate of pay is calculated using the following formula: annual rate of pay multiplied by 12 and divided by 313.

## **54. Salary packaging**

- 54.1 Employees may choose to sacrifice part of their salary for a range of non-cash benefits in accordance with legislation and government policy.

## **55. Superannuation**

- 55.1 The Commission will make compulsory employer contributions as required by the applicable legislation and fund requirements.
- 55.2 The CEO may choose to limit superannuation choice to complying superannuation funds that allow employee and/or employer contributions to be paid through fortnightly electronic funds transfer using a file generated by the agency's payroll system.
- 55.3 Where employer contributions are paid to an accumulation superannuation fund the employer contribution will be 15.4 percent of the fortnightly superannuation contribution salary.
- 55.4 This will not be reduced by any other contributions made through salary sacrifice arrangements. This clause does not apply where a superannuation fund cannot accept employer superannuation contributions (e.g. unable to accept contributions for people aged over 75).

## **56. Salary on reduction**

- 56.1 An employee's classification may be reduced at the employee's request or if the CEO directs.
- 56.2 Reduction by the CEO may occur in accordance with the PS Act.
- 56.3 If an employee requests in writing or is directed to perform work at a lower classification level temporarily or permanently, the CEO will determine the salary rate at the lower classification level. The determination will reflect the employee's experience, qualifications and skills and the circumstances under which the reduction occurred.

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## PART G – ALLOWANCES

### 57. Higher Duties Allowance

- 57.1 An employee who is reassigned duties at a higher non-SES classification level for a period of fifteen (15) consecutive working days (inclusive of public holidays) or more will be paid a Higher Duties Allowance (HDA) equal to the difference between the employee's current base salary and pay point of the higher classification as determined by the CEO.
- 57.2 An employee who is reassigned duties at a higher level in an SES position for a period of fifteen (15) consecutive working days or more will be remunerated at a salary level determined by the CEO.

### 58. Travel assistance

- 58.1 An employee undertaking official travel may use a travel charge card or other Government credit card to pay for reasonable accommodation, meals and incidental expenses subject to approval by their supervisor.
- 58.2 Where an employee does not have access to a travel charge card or other Government credit card they will be reimbursed reasonable expenses. This is subject to provision of evidence of expenditure and approval by their supervisor.

### 59. Motor vehicle allowance

- 59.1 Motor Vehicle Allowance is payable where the CEO authorises an employee to use a private vehicle for official purposes. The use of a private vehicle for official purposes must result in greater efficiency or less expense for the Commission.

### 60. Reimbursement for loss or damage

- 60.1 The CEO may approve reimbursement to an employee for loss or damage to clothing and/or personal effects, which occurred in the course of the employee's work.

### 61. Relocation assistance

- 61.1 The CEO may approve assistance with relocation expenses.

### 62. Retirement financial assistance

- 62.1 An employee who is aged 54 years or over may receive a on-off reimbursement of up to \$500 towards the cost of financial retirement advice.

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### **63. First aid officer/fire warden/health and safety representative allowance**

- 63.1 First aid officers and fire wardens appointed by the CEO will receive an allowance of \$30.00 per fortnight. This allowance will increase to \$30.60 effective 12 months after commencement of this Agreement and to \$31.21 effective 24 months after commencement.
- 63.2 Health and safety representatives appointed by the CEO will receive an allowance of \$26.78 per fortnight. This allowance will increase to \$27.32 effective 12 months after commencement of this Agreement and to \$27.87 effective 24 months after commencement.
- 63.3 Where an employee holds two or more of these roles simultaneously they will only receive one allowance.
- 63.4 Allowances will not be payable during any periods of unpaid leave or annual leave and/or personal carer's leave in excess of twenty (20) days. Payment of allowances during periods of long service leave are made in accordance with *the Long Service Leave (Commonwealth Employees) Act 1976*.

### **64. Professional membership/accreditation allowance**

- 64.1 The Commission will reimburse membership fees and accreditation fees of up to \$500 per annum where a membership or accreditation from a professional association is an essential requirement for an employee to undertake their responsibilities for the Commission, or as agreed by the CEO.

### **65. Restriction Allowance**

- 65.1 The CEO may approve the provision of a restriction allowance payment to an individual or group of employees who has been directed to be contactable and available to be called out to perform extra duties outside their agreed bandwidth (noting the default bandwidth is 7.00am – 7.00pm) each week the employee is directed to be on call.
- 65.2 The weekly restriction allowance will be \$350 per week.
- 65.3 For any period of restriction allowance of less than one week in total, the employee will be paid 1/7 of the restriction allowance for each 24 hour period.
- 65.4 If an employee is on restriction allowance and is recalled to duty at a place of work, the employee will be paid overtime at the applicable rate of pay:
- The minimum payment for recall to duty will be two (2) hours at the applicable overtime rate or the actual hours of overtime worked, whichever is the greater (including travel time).
  - If the employee is not recalled to the place of work the minimum payment will be one (1) hour or the actual hours of overtime worked whichever is the greater.
- 65.5 Executive level employees may, in certain circumstances, be eligible for payment of a restriction allowance as determined by the CEO.

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- 65.6 If an executive level employee is recalled to work they will receive access to TOIL or in exceptional circumstances may receive overtime payment.

**66. Language proficiency allowance**

- 66.1 Where the CEO determines that an employee is required to hold a proficiency in a language other than English (including or utilising deaf communication skills), as a mandatory requirement of their role, the employee will be entitled to an allowance of \$1,600 per annum.
- 66.2 An eligible employee is one who:
- is accredited or recognised by National Accreditation Authority for Translators and Interpreters (NAATI) at the Paraprofessional Interpreter level or above; or
  - is assessed to be at the equivalent levels by an individual or body approved by the CEO (delegate); or
  - is considered by the CEO (delegate) to have the equivalent skills where there is no other appropriate individual or body approved by PM&C.
- 66.3 The allowance will only be payable to an employee while they continue to occupy the role for which the language proficiency is required.

## PART H – TERMINATION OF EMPLOYMENT

**67. Termination by employee**

- 67.1 An employee may terminate his or her employment at any time by giving two (2) weeks' notice in writing to the CEO.

**68. Termination of employment by NMHC**

- 68.1 Nothing in this Agreement prevents the CEO from terminating the employment of an employee for serious misconduct, without further notice or payment in lieu, in accordance with sub-section 123(1)(b) of the *Fair Work Act 2009*, subject to compliance with the procedures established by the CEO for determining whether an employee has breached the APS Code of Conduct under *Public Service Act 1999*.

## ATTACHMENT 1 – CLASSIFICATIONS AND PAY RATES

Classification	Pay point	Current	On Commencement	12 Months	24 Months
<b>EL 2</b>	<b>Zone of Discretion</b>	<b>\$148,759</b>	<b>\$151,734</b>	<b>\$154,769</b>	<b>\$157,864</b>
	EL 2.4	\$140,471	\$143,280	\$146,146	\$149,069
	EL 2.3	\$132,990	\$135,650	\$138,363	\$141,130
	EL 2.2	\$125,508	\$128,018	\$130,579	\$133,190
	EL 2.1	\$118,027	\$120,388	\$122,795	\$125,251
<b>EL1</b>	<b>Zone of Discretion</b>	<b>\$123,603</b>	<b>\$126,075</b>	<b>\$128,597</b>	<b>\$131,168</b>
	EL 1.4	\$115,572	\$117,883	\$120,241	\$122,646
	EL 1.3	\$110,849	\$113,066	\$115,327	\$117,634
	EL 1.2	\$106,127	\$108,250	\$110,415	\$112,623
	EL 1.1	\$101,404	\$103,432	\$105,501	\$107,611
<b>APS 6</b>	<b>Zone of Discretion</b>	<b>\$97,137</b>	<b>\$99,080</b>	<b>\$101,061</b>	<b>\$103,083</b>
	APS 6.4	\$88,675	\$90,449	\$92,257	\$94,103
	APS 6.3	\$85,941	\$87,660	\$89,413	\$91,201
	APS 6.2	\$82,816	\$84,472	\$86,162	\$87,885
	APS 6.1	\$78,908	\$80,486	\$82,096	\$83,738
<b>APS 5</b>	APS 5.4	\$75,003	\$76,503	\$78,033	\$79,594
	APS 5.3	\$73,439	\$74,908	\$76,406	\$77,934
	APS 5.2	\$71,486	\$72,916	\$74,374	\$75,862
	APS 5.1	\$69,143	\$70,526	\$71,936	\$73,375
<b>APS 4</b>	APS 4.4	\$67,579	\$68,931	\$70,309	\$71,715
	APS 4.3	\$65,626	\$66,939	\$68,277	\$69,643
	APS 4.2	\$64,065	\$65,346	\$66,653	\$67,986
	APS 4.1	\$62,112	\$63,354	\$64,621	\$65,914
<b>APS 3</b>	APS 3.4	\$60,158	\$61,361	\$62,588	\$63,840
	APS 3.3	\$58,596	\$59,768	\$60,963	\$62,183
	APS 3.2	\$57,032	\$58,173	\$59,336	\$60,523
	APS 3.1	\$55,862	\$56,979	\$58,119	\$59,281
<b>APS 2</b>	APS 2.4	\$54,297	\$55,383	\$56,491	\$57,620
	APS 2.3	\$52,737	\$53,792	\$54,868	\$55,965
	APS 2.2	\$50,391	\$51,399	\$52,427	\$53,475
	APS 2.1	\$48,829	\$49,806	\$50,802	\$51,818
<b>APS 1</b>	APS 1.4	\$47,657	\$48,610	\$49,582	\$50,574
	APS 1.3	\$45,704	\$46,618	\$47,550	\$48,501
	APS 1.2	\$44,532	\$45,423	\$46,331	\$47,258
	APS 1.1	\$43,362	\$44,229	\$45,114	\$46,016



NMHC GRADUATE BROADBAND

Classification	Pay Point	Current	On Commencement	12 Months	24 Months
<b>APS 5</b>	APS 5.4	\$75,003	\$76,503	\$78,033	\$79,594
	APS 5.3	\$73,439	\$74,908	\$76,406	\$77,934
	APS 5.2	\$71,486	\$72,916	\$74,374	\$75,862
	APS 5.1	\$69,143	\$70,526	\$71,936	\$73,375
<b>APS4</b>	APS4.4	\$67,579	\$68,931	\$70,309	\$71,715
	APS 4.3	\$65,626	\$66,939	\$68,277	\$69,643
	APS 4.2	\$64,065	\$65,346	\$66,653	\$67,986
	APS 4.1	\$62,112	\$63,354	\$64,621	\$65,914
<b>APS3</b>	APS 3.4	\$60,158	\$61,361	\$62,588	\$63,840
	APS 3.3	\$58,596	\$59,768	\$60,963	\$62,183
	APS 3.3	\$57,032	\$58,173	\$59,336	\$60,523
	APS 3.1	\$55,862	\$56,979	\$58,119	\$59,281

## ATTACHMENT 2 – EXTRA DUTY PAYMENTS (OVERTIME)

The rate of extra duty payment (overtime) is per hour, as set out below.

If an APS1-6 employee performs approved extra duty for less than one hour, a minimum payment of one hour will be made. After the first hour, if less than a whole hour is worked; payment will be calculated at the nearest hour.

The rate is higher for the first hour of extra duty on a weekend or public holiday because it takes into account the cost of travel to work.

APS	Current Rate	On Commencement	12 Months	24 Months
APS 1-3 Monday-Friday	\$47.27	\$48.22	\$49.18	\$50.16
APS 1-3 Sat, Sun, Public Holiday – 1 <sup>st</sup> hour	\$73.15	\$74.61	\$76.11	\$77.63
APS 1-3 Sat, Sun, Public Holiday – 2 <sup>nd</sup> and subsequent hours	\$47.27	\$48.22	\$49.18	\$50.16
APS 4-6 Monday-Friday	\$61.90	\$63.14	\$64.40	\$65.69
APS 4-6 Sat, Sun, Public Holiday – 1 <sup>st</sup> hour	\$86.66	\$88.39	\$90.16	\$91.96
APS 4-6 Sat, Sun, Public Holiday – 2 <sup>nd</sup> and subsequent hours	\$61.90	\$63.14	\$64.40	\$65.69

## **ATTACHMENT 3 – MANAGEMENT OF EXCESS EMPLOYEES**

### **Application**

1. The following provisions will apply to any employee who is excess and covered by this Agreement, other than non-ongoing employees or employees on probation.

### **Workplace support**

2. An excess employee may request assistance in meeting reasonable travel and incidental expenses incurred in seeking alternative employment where these are not met by the prospective employer and will be entitled to reasonable leave with full pay to attend necessary employment interviews.
3. The Commission will observe the APS-Wide Redeployment Policy.

### **Consultation process**

4. Where the CEO becomes aware that an employee is likely to become excess or has become excess, the CEO will advise the employee in writing as soon as practicable of the reasons for this decision.
5. Within 30 calendar days of notification, the CEO will hold discussions with the employee, and the employee's nominated representative (if applicable), to consider:
  - any measures that could be taken to remove or reduce the incidence of an employee becoming excess;
  - redeployment opportunities;
  - referral to a redeployment program; and
  - whether voluntary retrenchment, redeployment or re-assignment of duties may be appropriate.
6. Where an employee has been notified they are potentially excess and the employee or their nominated representative has declined to participate in a discussion, the CEO may immediately identify the employee as excess to the requirements of the Commission.
7. Where an employee does not express a preference for redeployment or voluntary retrenchment, the CEO may identify the employee as excess to the requirements of the Commission 30 calendar days after the employee was notified that they are potentially excess.

### **Invitation to express interest in voluntary retrenchment**

8. The CEO may, prior to the conclusion of these discussions, invite employees who are not potentially excess to express interest in voluntary retrenchment, where this would permit the redeployment of employees who are potentially excess.

### **Redeployment and re-assignment of duties**

9. Within a reasonable timeframe, the CEO will take all reasonable steps, consistent with the interests of the efficient administration of the Commission, including merit based selection, to re-assign the duties of an excess employee at the same level, within the Commission, or to assist in the movement of an employee to another APS agency.
10. The Commission will consider an excess employee in isolation from and not in competition with other applicants for an advertised job within the Commission at or below the employee's classification level for which the employee has applied.
11. If necessary, employees seeking redeployment may be referred to a redeployment program, if redeployment is not readily available in the Commission. The Commission will meet any costs associated with this referral.
12. An excess employee who declines an offer of voluntary retrenchment or does not accept the offer within the 30 day period will be immediately referred to a redeployment program, unless the employee was referred prior to receiving the offer, and a retention period will commence in accordance with clause 28 of this Attachment 3.
13. An employee who has been referred to a redeployment program and who has not already been made an offer of voluntary retrenchment will be made an offer of voluntary retrenchment two months after the referral if the employee cannot be placed within the Commission and redeployment is not successful.

### **VOLUNTARY RETRENCHMENT**

#### **Consideration period**

14. An employee who has been advised that they are excess and who is not seeking redeployment will be made only one offer of voluntary retrenchment in respect of any single retrenchment situation, and will be given 30 days in which to consider the offer commencing on the day after the offer is made.

#### **Period of notice**

15. Where an offer of voluntary retrenchment is accepted by the employee, the CEO can terminate the employee's employment under section 29 of the *Public Service Act 1999* and give the required notice of termination of four (4) weeks (or five (5) weeks for an employee over 45 years of age with at least five (5) years of continuous service). The period of notice will commence the day after the employee is notified of his or her termination of employment.

#### **Accelerated separation**

16. The CEO may provide employees likely to be subject to the redundancy provisions of this Agreement with an accelerated separation option. In addition to the severance benefit, this option provides employees who have been identified as eligible to be made an offer of voluntary redundancy and whose employment is terminated by the CEO under section 29 of the *Public Service Act 1999* on the grounds that they are excess to requirements within fourteen (14) days of receiving it, an amount of ten (10) weeks' salary (or eleven (11) weeks' salary for an employee 45 years of age with a least five (5) years continuous service). The payments made under this clause are inclusive of the period of consideration and any statutory entitlement to payment in lieu of notice.

17. This option is available to employees who exit from the Commission prior to the commencement of any formal consultation with employees and their nominated representatives, noting that at any time, the employee may nominate a representative they wish to be involved in this matter, in which case the CEO will hold discussions with the employee and their representative.
18. Where an employee has elected not to accept an offer under this option, the redundancy provisions of this Agreement will then apply.
19. Where an employee requests or where the CEO directs an earlier termination date within the notice period, the employee's employment will be terminated under section 29 of the *Public Service Act 1999* on that date. Where an employee's employment is terminated at the beginning of, or within, the notice period, the employee will receive payment in lieu of notice for the unexpired portion of the notice period on the basis of:
  - the employee's current ordinary hours of work;
  - the amounts payable to the employee in respect of those hours, e.g. allowances and skills and responsibilities loading; and
  - any other payments under the employee's contract of employment except for accruals that would have occurred had the person remained as an employee during the relevant notice period.

#### **Where an offer of Voluntary Retrenchment has been accepted**

20. When an employee is invited to accept voluntary retrenchment, or has been notified in writing that they are potentially excess, they will be given information on the:
  - amount of severance pay, pay in lieu of notice and the balance of any annual leave and long service leave credits;
  - amount of accumulated superannuation contributions;
  - options available to the employee concerning superannuation;
  - taxation rules applying to the various payments;
  - access to career advisory services; and
  - availability of assistance up to a maximum amount of \$500 for financial advice.

#### **Severance Benefit – Recognition of Service**

21. An employee who accepts voluntary retrenchment and whose employment is terminated by the CEO under section 29 of the *Public Service Act 1999* on the grounds that they are excess to requirements is entitled to two (2) weeks' salary for each completed year of continuous service, plus a pro-rata payment for completed months of service since the last completed year of service.
22. The minimum amount payable will be four (4) weeks' salary and the maximum will be 48 weeks salary subject to any minimum amount the employee is entitled to under the National Employment Standard.

23. Severance payments involving part-time employees will be calculated on a pro-rata basis for any period where they have worked part-time hours during their period of service and where they have less than the equivalent of 24 years full-time service.

24. Service for severance pay purposes means:

- service in the Commission;
- Government service as defined in section 10 of the *Long Service Leave (Commonwealth Employees) Act 1976*;
- service with the Commonwealth (other than service with a joint Commonwealth-State body corporate in which the Commonwealth does not have a controlling interest) which is recognised for long service leave purposes;
- service with the Australian Defence Forces;
- APS service immediately preceding deemed resignation under the repealed Section 49 of the repealed *Public Service Act 1922* if the service has not previously been recognised for severance pay purposes; and
- service in another organisation where the employee was moved from the APS to give effect to an administrative re-arrangement; or an employee of that organisation is engaged as an APS employee as a result of an administrative re-arrangement, and such service is recognised for long service leave purposes.

25. Service that will not count as service for severance pay purposes is any period of service which ceased through termination on any ground set out in section 29 of the *Public Service Act 1999*.

26. For earlier periods of service to count as severance pay, there must be no breaks between periods of service, except where:

- the break in service is less than one (1) month and occurs where an offer of employment with the new employer was made and accepted by the employee before ceasing employment with the preceding employer; or
- the earlier period of service was with the APS and ceased because the employee was deemed to have resigned from the APS on marriage under the repealed section 49 of the *Public Service Act 1922*.

27. Absences from work which do not count as service for long service leave purposes will not count as service for severance pay purposes.

#### **Severance benefit – rate of payment**

28. Salary for severance pay purposes will include:

- the employee's substantive salary adjusted on a pro-rata basis for periods of part-time service;
- temporary performance allowance for performance of duties at a higher classification level where the employee has been performing duties at the higher classification level for a continuous period of at least twelve (12) months immediately prior to the date on which the employee was given notice of termination of employment; and



- other allowances in the nature of salary which have been paid to the employee on a regular basis and have continued to be paid during periods of annual leave, excluding allowances which are a reimbursement for expenses incurred.

### COMMENCEMENT OF RETENTION PERIOD

29. A retention period will commence in relation to an employee who has sought redeployment, has declined an offer of voluntary retrenchment and has been referred to a redeployment program prior to the offer being made.

#### Retention period

30. If an excess employee does not accept voluntary retrenchment, unless the employee agrees, the employee will not be involuntarily terminated by the CEO under section 29 of the *Public Service Act 1999* until the seven (7) months retention period has lapsed.

31. If an employee is entitled to a redundancy payment in accordance with the National Employment Standards (NES) the relevant period in clause 30 is reduced by the number of weeks redundancy pay that the employee will be entitled to under the NES on termination of employment, as at the expiration of the retention period (as adjusted by this clause).

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

- the day the employee is advised in writing by the CEO (delegate) that he or she is an excess employee; or
- 30 days after the day on which the CEO (delegate) invites the employee to accept voluntary retrenchment.

33. The retention period and the notice period may be extended by any periods of paid personal/carer's leave not exceeding 6 months, which is supported by medical evidence, taken in these periods.

34. During the retention period, the CEO (delegate):

- will continue to take reasonable steps to find alternative suitable employment for the excess employee; and/or
- may after giving four (4) weeks' notice to the employee; reduce his or her classification as a means of securing alternative employment for the excess employee.

35. If an employee's classification is reduced during the retention period, the employee will continue to be paid at his or her previous level of salary for the balance of the retention period.

36. Where the CEO (delegate) believes there is insufficient productive work available for the excess employee during the retention period, the CEO (delegate) may, with the agreement of the excess employee, terminate the employee's employment under section 29 of the *Public Service Act 1999* on the grounds that he/she is excess to requirements and pay the balance of the retention period as a lump sum amount. The lump sum payment will be taken to include payment in lieu of notice of termination.

37. Upon termination the employee will be paid a lump sum comprising:



- a. The balance of the retention period (as shortened for the NES under clause 31 above) and this payment will be taken to include the payment in lieu of notice of termination of employment; and
- b. An additional redundancy payment equal to the amount the retention period was shortened by under clause 31 above (i.e. the NES component).

#### INVOLUNTARY RETRENCHMENT

38. At the end of the retention period, the CEO, subject to redeployment, may involuntarily retrench the excess employee under section 29 of the *Public Service Act 1999*.
39. An excess employee will not be retrenched involuntarily where:
  - the employee has not been invited to accept an offer of voluntary retrenchment; or
  - the employee has elected to be retrenched, but the CEO (delegate) has refused approval; or
  - the employee has not been given four (4) weeks' notice of termination of employment (or five (5) weeks' notice for an employee over 45 years of age with at least five (5) years continuous service), or payment in lieu of notice; or
  - there remain employees who have elected voluntary retrenchment, been refused, and still wish voluntary retrenchment in the situation where a redundancy situation affects a number of employees engaged in the same work at the same level and location and the employees have been invited to retire; or
  - the employee has not consented and a vacancy exists in the Commission that would permit the retention in employment of the employee (in such cases the employee would have preference in employment before an employee who is not engaged by the Commission).

## ATTACHMENT 4 - SUPPORTED WAGE SYSTEM FOR EMPLOYEES WITH A DISABILITY

1. This schedule defines the conditions which will apply to employees who because of the effects of a disability are eligible for a supported wage under the terms of this award.
2. In this schedule:

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

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

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

**Relevant minimum wage** means the minimum wage prescribed in this award for the class of work for which an employee is engaged

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

**SWS wage assessment agreement** means the document in the form required by the Department of Education, Employment and Workplace Relations that records the employee's productive capacity and agreed wage rate

### 3. Eligibility criteria

- 3.1 Employees covered by this schedule will be those who are unable to perform the range of duties to the competence level required within the class for which the employee is engaged under this award, because of the effects of a disability on their productive capacity and who meet the impairment criteria for receipt of a disability support pension.
- 3.2 The schedule does not apply to any existing employee who has a claim against the employer which is subject to the provisions of workers compensation legislation or any provision of this award relating to the rehabilitation of employees who are injured in the course of their employment.

#### 4. Supported wage rates

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

Assessed capacity [sub-clause (d)]	% of prescribed award rate
10%	10%
20%	20%
30%	30%
40%	40%
50%	50%
60%	60%
70%	70%
80%	80%
90%	90%

- 4.2 Provided that the minimum amount payable must be not less than \$82 per week.
- 4.3 Where an employee's assessed capacity is 10%; they must receive a high degree of assistance and support.

#### 5. Assessment of capacity

- 5.1 For the purposes of establishing the percentage of the relevant minimum wage, the productive capacity of the employee will be assessed in accordance with the Supported Wage System by an approved assessor, having consulted the employer and the employee, and if the employee so desires, a union which the employee is eligible to join.
- 5.2 Assessment made under this schedule must be documented in a SWS wage assessment agreement, and retained by the employer as a time and wages record in accordance with the Act.

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

- 6.1 All SWS wage assessment agreements under the conditions of this schedule, including the appropriate percentage of the relevant minimum wage to be paid to the employee, must be lodged by the employer with the Fair Work Commission.
- 6.2 All SWS wage assessment agreements must be agreed and signed by the employee and employer parties to the assessment. Where a union which has an interest in the award is not a party to the assessment, the assessment will be referred by the Fair Work Commission to the union by certified mail and the agreement will take effect unless an objection is notified to the Fair Work Commission within 10 working days.

#### 7. Review of assessment

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

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

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

## **9. Workplace adjustment**

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

## **10. Trial Period**

- 10.1 In order for an adequate assessment of the employee's capacity to be made, an employer may employ a person under the provisions of this schedule for a Trial Period not exceeding twelve (12) weeks, except that in some cases additional work adjustment time (not exceeding four (4) weeks) may be needed.
- 10.2 During that Trial Period the assessment of capacity will be undertaken and the percentage of the relevant minimum wage for a continuing employment relationship will be determined.
- 10.3 The minimum amount payable to the employee during the Trial Period must be no less than \$82 per week.
- 10.4 Work trials should include induction or training as appropriate to the job being trialled.
- 10.5 Where the employer and employee wish to establish a continuing employment relationship following the completion of the Trial Period, a further contract of employment will be entered into based on the outcome of assessment under clause 5.

## ATTACHMENT 5 – KEY TERMS

<b>Agreement</b>	The National Mental Health Commission Enterprise Agreement 2016 - 2019.
<b>APS</b>	The Australian Public Service.
<b>APS employee</b>	Refers to an employee employed under the <i>Public Service Act 1999</i> and has the same meaning as that contained within the <i>Public Service Act 1999</i> .
<b>Base rate of pay</b>	<p>The rate of pay payable to the employee for his or her ordinary hours of work, but not including any of the following:</p> <ul style="list-style-type: none"><li>• incentive-based payments and bonuses;</li><li>• loadings;</li><li>• monetary allowances;</li><li>• overtime or penalty rates; and</li><li>• any other separately identifiable amounts.</li></ul>
<b>CEO</b>	Chief Executive Officer
<b>Commission</b>	The National Mental Health Commission
<b>Partner</b>	<p>The partner of an employee means:</p> <ul style="list-style-type: none"><li>• a person who lives with the employee in a relationship as a couple on a genuine domestic basis (whether the employee and the person are of the same sex or different sexes); and</li><li>• includes a former partner of the employee.</li></ul>
<b>Dependant</b>	<p>In relation to an employee means:</p> <ul style="list-style-type: none"><li>• an employee's spouse; or</li><li>• an employee's partner who stands in a bona fide domestic relationship with the employee; or</li><li>• a child or parent of the employee, or of the spouse/partner of the employee being a child or parent who ordinarily resides with the employee and who is wholly or substantially dependent upon the employee.</li></ul>
<b>Employee</b>	A member of staff of the Commission employed under the <i>Public Service Act 1999</i> and paid by the Commission.
<b>Excess Employee</b>	<p>An employee who is excess to the requirements of the Commission if the CEO determines:</p> <ul style="list-style-type: none"><li>• the employee is included in a class of employees employed by the Commission, and there are more employees in the class than is necessary for the efficient and economical working of the Commission;</li><li>• the services of the employee cannot be effectively used because of technological or other changes in the work methods, or changes in</li></ul>

the nature, extent or organisation of the functions of the Commission; or

- the duties usually performed by the employee are to be performed by the employee at a different locality, and the employee is not willing to perform duties at that locality.

**Family**

Family or immediate family means:

- a spouse or defacto partner of the employee, including a former spouse or former defacto partner; and/or
- a child (including an adopted child, step child, foster child or an ex-nuptial child); and/or
- parent, grandparent, grandchild or sibling of the employee; and/or
- a child (including an adopted child, step child, foster child or an ex-nuptial child) of the employee's spouse or defacto partner; and/or
- a parent, grandparent, grandchild or sibling of a spouse or defacto partner of the employee; and/or
- a member of the employee's household;
- traditional kinship where there is a relationship or obligation, under customs and traditions of the community or group to which the employee belongs.

**Foster Child**

A foster child of an employee means a child for whom the employee has assumed primary responsibility for the long term care of the child who is, or will be, under 16 years of age and the child is not (otherwise than because of fostering) a child of the employee or the employee's spouse or defacto partner.

**Non-ongoing employee**

An employee engaged for a specific period, the duration of a specified task or duties that are irregular or intermittent, as defined by the *Public Service Act 1999*.

**Ongoing employee**

Ongoing employment as defined by the *Public Service Act 1999*.

**Permanent care order**

A permanent care order is a court order which grants custody and guardianship of a child (up to the age of 18) to the person or persons named in the order (not being the child's parent).

**PS Act**

*Public Service Act 1999*

**Salary**

The employee's annual rate of pay under this Agreement set in accordance with Attachment 1 of this Agreement or an individual's rate of pay in accordance with clause 47.2 of this Agreement.

**SES**

A Senior Executive Service employee under section 34 of the *Public Service Act 1999*.

**Substantive Work Level Standard (WLS)**

An employee's permanent classification level. Describes the work of a particular employment group and the various work levels (classifications) within that group.