

National Gallery of Australia  
Enterprise Agreement  
2018 – 2021



Albert Namatjira  
*Standley Chasm* about 1945

painting in watercolour over faint underdrawing in black pencil  
National Gallery of Australia, Canberra

Gift of Marilyn Darling AC in memory of Gordon Darling AC CMG 2016. Donated through the Australian Government's Cultural Gifts Program.

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## **PART A TECHNICAL MATTERS AND OPERATION**

### **A.1 TITLE**

A.1.1. This agreement shall be known as the National Gallery of Australia Enterprise Agreement 2018 – 2021 (Agreement).

### **A.2 COVERAGE AND PERSONS BOUND**

A.2.1. This Agreement is made under part 2-4 of the *Fair Work Act 2009* (Fair Work Act) and, in accordance with section 53 of the FW Act covers:

- (a) the Director of the National Gallery of Australia (NGA)
- (b) all employees of the NGA who are employed in classifications below the Senior Executive Service Level, and
- (c) subject to a decision of the Fair Work Commission (FWC), unions signatory to the Agreement.

### **A.3 COMMENCEMENT AND DURATION**

A.3.1. This Agreement will commence operation seven (7) days after approval by the FWC. The nominal expiry date is three (3) years from the date of Commencement.

A.3.2. This Agreement will continue to operate until it is rescinded or replaced by another Agreement.

### **A.4 DELEGATIONS**

A.4.1. The Director may, by instrument in writing, delegate or authorise to a position, any of the Director's powers or functions under this Agreement.

### **A.5 INDIVIDUAL FLEXIBILITY ARRANGEMENTS**

A.5.1. The NGA and an employee covered by this Agreement may agree to make an individual flexibility arrangement to vary the effect of terms of the Agreement if:

- (a) the arrangement deals with one (1) or more of the following matters:
  - (i) arrangements about when work is performed;
  - (ii) overtime rates;
  - (iii) penalty rates;
  - (iv) allowances;
  - (v) remuneration; and/or
  - (vi) leave; and
- (b) the arrangement meets the genuine needs of the NGA and the employee in relation to 1 or more of the matters mentioned in paragraph (a); and
- (c) the arrangement is genuinely agreed to by the NGA and the employee.

- A.5.2. The NGA must ensure that the terms of the individual flexibility arrangement:
- (a) are about permitted matters under section 172 of the Fair Work Act; and
  - (b) are not unlawful terms under section 194 of the Fair Work Act; and
  - (c) result in the employee being better off overall than the employee would be if no arrangement was made.
- A.5.3. The NGA must ensure that the individual flexibility arrangement:
- (a) is in writing; and
  - (b) includes the name of the employer and employee; and
  - (c) is signed by the employer and employee and if the employee is under 18 years of age, signed by a parent or guardian of the employee; and
  - (d) includes details of:
    - (i) the terms of the 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
  - (e) states the day on which the arrangement commences, and where applicable, when the arrangement ceases.
- A.5.4. The NGA must give the employee a copy of the individual flexibility arrangement within 14 days after it is agreed to.
- A.5.5. The NGA or employee may terminate the individual flexibility arrangement:
- (a) by giving no more than 28 days written notice to the other party to the arrangement; or
  - (b) if the NGA and employee agree in writing — at any time.

## **A.6 POLICIES AND GUIDELINES**

- A.6.1. Any policies, guidelines or procedures referred to in this Agreement are not incorporated into, and do not form part of, this Agreement. Employees should make themselves familiar with the policies, guidelines and procedures, which may be varied from time to time, and they will apply in the form they are in as at the time of any relevant action or decision. For assistance and guidance, particular policies, guidelines and procedures are identified in the relevant clause. If there is any inconsistency between the policies, guidelines and procedures and the express terms of this Agreement, the express terms of this Agreement will prevail.

## **A.7 REVIEW OF EMPLOYMENT RELATED ACTIONS**

- A.7.1. An employee may, within three (3) months of a decision or action relating to their employment or working arrangements, request an internal review of that decision or action other than those relating to appeals, or termination of, or a decision to terminate, employment.
- A.7.2. Details can be found in the NGA's Policy and Procedures on the Review of Employment Related Actions.

## **A.8 DISPUTE SETTLEMENT**

- A.8.1. If a dispute relates to:

- (a) a matter arising under the agreement; or
- (b) the National Employment Standards (NES);

this term sets out procedures to settle the dispute.

- A.8.2. An employee who is a party to the dispute may appoint a representative for the purposes of the procedures in this term.
- A.8.3. In the first instance, the parties to the dispute must try to resolve the dispute at the workplace level, by discussions between the employee or employees and relevant supervisors and/or management.
- A.8.4. If discussions at the workplace level do not resolve the dispute, a party to the dispute may refer the matter to the FWC.
- A.8.5. The FWC may deal with the dispute in two (2) stages:
- (a) the FWC will first attempt to resolve the dispute as it considers appropriate, including by mediation, conciliation, expressing an opinion or making a recommendation; and
  - (b) if the FWC is unable to resolve the dispute at the first stage, the FWC may then:
    - (i) arbitrate the dispute; and
    - (ii) make a determination that is binding on the parties.

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

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



- A.8.6. 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 employer 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.
- A.8.7. The parties to the dispute agree to be bound by a decision made by the FWC in accordance with this term.

## **PART B EMPLOYMENT FRAMEWORK**

### **B.1 FORMS OF EMPLOYMENT**

- B.1.1. Employees of the NGA are employed in one of the following categories:
- (a) ongoing
  - (b) non-ongoing (includes temporary employees engaged for a specified term or a specified task, and casuals engaged on an irregular or intermittent basis)
  - (c) graduate
  - (d) cadet, or
  - (e) trainees.
- B.1.2. The NGA may engage employees on a casual basis to undertake duties that are irregular or intermittent in nature. Casual employees will be paid an additional loading at the rate of 20% in lieu of paid leave except long service leave and public holidays on which the employee is not rostered to work. The minimum daily engagement for a casual employee is three (3) hours.

### **B.2 CLASSIFICATION AND STRUCTURE**

- B.2.1. The NGA will maintain Work Level Standards in consultation with the NGA Consultative Committee.
- B.2.2. Positions within the NGA will be classified in accordance with the Work Level Standards and employees will be paid in accordance with the classification and salary structure set out in Appendix 1, or by an Individual Flexibility Arrangement, and with the salary advancement provisions of the NGA's Performance Management Strategy.

### **B.3 BROADBANDING**

- B.3.1. Advancement between classifications in a broadband will only occur where:
- (a) an employee's performance is assessed as meeting expectations
  - (b) there is sufficient work available at the higher classification level, and
  - (c) the employee has the necessary skills and proficiencies to perform that work.

### **B.4 SELECTION, RECRUITMENT AND APPEALS**

- B.4.1. The NGA is committed to the principles of equity, fairness, merit and transparency in its approach to recruitment, promotion, transfer and advancement. More information can be found in the Selection and Recruitment Guidelines.
- B.4.2. An appeal process for unsuccessful applicants for promotion to an ongoing position on the grounds of merit, up to and including an NGA level 6, may be lodged within 14 days of notification of the selection outcome. More information can be found in the NGA's Promotion Appeals Guidelines.

## **B.5 PROBATION**

- B.5.1. Where the director appoints a person as an ongoing employee, or on a non-ongoing basis for a period over 12 months, they will be probationary employees until their appointment is confirmed. Confirmation of their period of employment will be subject to the following:
- (a) their health and physical fitness meets the requirements for the position to which they have been employed (as assessed by an authorised medical practitioner);
  - (b) their performance is assessed as effective by their supervisor at the end of the probation period;
  - (c) they observe, and to the best of their ability, follow the values and standards set out in the NGA's Code of Conduct;
  - (d) their services continue to be needed by the NGA; and
  - (e) they are an Australian citizen.
- B.5.2. The period of probation will be set at the time of offer of engagement. Further information on probationary arrangements can be found in the NGA's Probation Guidelines.

## **PART C WORKING HOURS AND ARRANGEMENTS**

### **C.1 WORKING FLEXIBLY**

- C.1.1. The NGA is committed to providing flexible work arrangements that balance the business requirements of the NGA and the family, caring and other personal commitments of employees. This Agreement contains provisions to assist employees and supervisors to achieve an appropriate work/life balance.

### **C.2 HOURS OF DUTY**

#### **Standard Working Hours**

- C.2.1. Standard hours of work in the NGA will be seven (7) hours 30 minutes per day. This is a total of 37.5 hours per week. A standard day is regarded as 8.30am to 12.30pm and 1.30pm to 5.00pm, Monday to Friday. Working arrangements outside these hours are to be agreed between the employee and their supervisor, and where necessary the Department Head.
- C.2.2. Where an employee specifically requests to work outside this span of hours, including on weekends, he or she may do so with the agreement of their manager. Any hours worked on this basis will be considered 'ordinary hours' and will not attract overtime or penalty rates. When considering such requests managers will take account of operational requirements and the impact on other employees. Such arrangements will be documented.

#### **Working patterns**

- C.2.3. An employee's pattern of work is a matter for agreement between the supervisor and the employee. However, an employee will:
- (a) make themselves available for reasonable direction to work outside his or her agreed pattern of work;
  - (b) not work more than five (5) consecutive hours without a meal break of at least 30 minutes; and
  - (c) not be required to work more than 10 hours ordinary time on any one day.

### **C.3 FLEXTIME**

- C.3.1. The following flexitime arrangements apply to employees employed in classifications at NGA Levels 1 to 6 (except where other individual fixed daily hour arrangements are in place).
- C.3.2. The span of hours (flexitime bandwidth) during which employees may work their ordinary hours of duty is 7.00am to 7.00pm, Monday to Friday. It is expected that the flexitime bandwidth hours will meet most of the NGA's operational requirements.

#### **Flex Credits**

- C.3.3. NGA employees covered by flexitime arrangements may adjust how they work their total ordinary hours over a "four-week settlement period" (i.e. 150 hours), commencing on a Thursday payday and finishing on a Wednesday.

- C.3.4. Unless there are exceptional circumstances, employees may generally only carry over a maximum flextime credit of 25 hours at the end of the settlement period. Employees and supervisors will take joint responsibility for ensuring that flex credits are not exceeded and that employees are not continuing to build excessive flex credits without the opportunity to access flex leave.
- C.3.5. Where an employee has a flex credit in excess of 25 hours, a request for flex leave will not be unreasonably refused. Generally the maximum accessible flex in any given settlement period will be three (3) days subject to operational requirements.
- C.3.6. The maximum flex debit will be 10 hours. Employees and supervisors will take joint responsibility for ensuring that flex debit maximums are not exceeded. As well, employees should take all reasonable steps to eliminate their debits.
- C.3.7. Up to 25 hours of flex credits will be paid out to employees when they separate from the NGA and cease to be an employee. The payment will be calculated using the employee's final rate of salary.
- C.3.8. Further information on flextime arrangements can be found in the NGA's Employee Attendance Guidelines.

### **Recording Attendance**

- C.3.9. Employees employed in classifications at NGA Levels 1 to 6 will keep accurate and complete attendance records for the purpose of recording flextime. Supervisors are responsible for verifying that records are accurate and complete and shall take remedial action if attendance is not satisfactory.
- C.3.10. Employees employed in classifications above NGA Level 6 are required to keep accurate and complete attendance records either via the Executive Level (EL) attendance sheet or their personal diary.
- C.3.11. Access to flextime arrangements will not apply in circumstances where:
  - (a) an employee elects to work standard hours; or
  - (b) a manager reasonably considers that an employee's attendance is unsatisfactory; or
  - (c) a manager can establish that an employee is misusing the arrangements.

## **C.4 FIXED DAILY HOURS**

- C.4.1. Where, for operational reasons, the NGA considers that employees in a work area should work fixed daily hours, the hours of work will be determined at the work place, after consultation with affected employees and, if they request, their representatives.
- C.4.2. Where employees on fixed daily hours are required to work additional hours, they will receive overtime payments or time off in lieu for all duty performed outside their roster or fixed hours.

## **C.5 EXECUTIVE LEVEL EMPLOYEES**

- C.5.1. Employees employed at an EL classification 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 their Manager and reflected on an attendance record or diary.

- C.5.2. The arrangements in relation to flexible hours will be designed and agreed by the manager and EL employee taking account of the need to balance the achievement of organisational outcomes and individuals' work life balance.
- C.5.3. Where an EL employee undertakes significant additional productive effort which involves working in excess of ordinary hours for sustained periods, the manager will determine arrangements for reasonable time off to recognise the additional effort. Reasonable time off for EL employees is not on an hour-for-hour basis. These arrangements are intended to provide EL employees with fair and reasonable access to time off.
- C.5.4. More information regarding EL time off in lieu can be found in the Employee Attendance Guidelines.

## **C.6 PART-TIME WORK**

- C.6.1. The NGA recognises that part-time employment may enhance operational flexibility and assist employees to balance work, family and personal needs.
- C.6.2. All employees may apply to work part-time, but in most instances it is not an entitlement or a right, and can only occur by formal agreement between the NGA and the employee. The exception is the instance of an employee returning to work after giving birth, or adopting or fostering a child, in which case the employee has the right to work part-time until the child reaches the age of three or, in the case of adoption/fostering, on the third anniversary of the placement of the child.
- C.6.3. Circumstances in which an employee may request a change in working arrangements include, but are not limited to, where:
  - (a) the employee is the parent, or has responsibility for the care, of a child who is of school age or younger;
  - (b) the employee is a carer (within the meaning of the *Carer Recognition Act 2010*);
  - (c) the employee has a disability;
  - (d) the employee is 55 or older;
  - (e) the employee is experiencing violence from a member of the employee's family;
  - (f) the employee provides care or support to a member of the employee's immediate family, or a member of the employee's household, who requires care or support because the member is experiencing violence from the member's family.
- C.6.4. Requests will be considered in line with the part-time clauses of this Agreement and will not be unreasonably rejected.
- C.6.5. Remuneration and other conditions will be calculated on a pro-rata basis, apart from expense-related allowances or reimbursements, where a part-time employee will receive the same amount as a full-time employee.
- C.6.6. Recreation leave will accrue progressively based on the ordinary hours of work.
- C.6.7. Leave credits will not accrue in respect of leave without pay once more than 30 calendar days of leave without pay is taken in a calendar year.
- C.6.8. Deductions of leave will be made on an hour-for-hour basis.
- C.6.9. A full-time employee may submit to the Director a written request for approval to work on a part-time basis, either for a finite period or on an ongoing basis.
- C.6.10. The Director may agree to requests for part-time work.

- C.6.11. Consideration of operational requirements will include an assessment of the effect of the proposal on individual workloads and the team as a whole.
- C.6.12. Part-time work arrangements will be set out in a Part-Time Work Agreement specifying the employee's regular part-time hours to be worked during the settlement period, the duration of the agreement and any specific arrangements that are necessary to facilitate part-time work. Weekly attendance may not be for less than 15 hours (and no less than three (3) hours per attendance), unless this requirement is waived by the Director.
- C.6.13. Part-time hours included in a part-time work agreement must be within the bandwidth hours specified within this Agreement (7.00am - 7.00pm).
- C.6.14. A part-time employee may access the Flexible Working Arrangements Scheme under the same arrangements as full-time employees, by arrangement with their supervisor.
- C.6.15. All variations of hours of work will be taken into account in calculating a part-time employee's leave entitlements.
- C.6.16. Full-time employees will not be required to convert to part-time hours without their agreement. A part-time employee may revert to full-time hours earlier than noted in the Part-Time Work Agreement with the agreement of the Director, subject to operational requirements.
- C.6.17. A supervisor may require a part-time employee to perform additional duty (i.e. more hours than agreed as their regular part-time hours over the settlement period in their Part-Time Work Agreement). Employees may refuse to work additional hours if they are unreasonable. When additional hours are performed, overtime may be payable or flextime provisions could be used where appropriate.
- C.6.18. Where part-time employees at NGA Levels 1 to 6 perform additional duty and they are to be paid overtime, it will be paid in accordance with the rates set out in the Overtime clauses.
- C.6.19. The NGA encourages and will facilitate the use of job-sharing arrangements, subject to operational requirements. Full-time employees may request, in writing, approval to work in a job-share arrangement. Employees working under job-sharing arrangements share one full-time position, and will be considered to be part-time, with each working part-time hours on a regular basis.
- C.6.20. Further information can be found in the NGA Part-time Work Policy and Procedures.

## **PART D LEAVE**

### **D.1 GENERAL**

- D.1.1. For all absences of less than one (1) day, with their manager's agreement employees may have the absence recorded as flextime. For employees who do not have access to flextime, an arrangement may be made with their supervisor for the time to be made up as an alternative to accessing leave entitlements. A record of the absence will be maintained by the supervisor.
- D.1.2. Where an employee is absent from duty in excess of one (1) working day, without approval, all pay and other benefits provided under this Agreement may cease to be available until the employee resumes duty or is granted leave.
- D.1.3. Where leave is refused the supervisor will, on request, advise the employee in writing of the reason for the decision as soon as reasonably practicable.

### **D.2 RECREATION LEAVE**

- D.2.1. The recreation leave entitlement will be the equivalent of four (4) working weeks of paid leave for each year of service with the NGA or, in the case of shift workers, the equivalent of five (5) working weeks of paid leave for each year of service with the NGA.
- D.2.2. Recreation leave accrues progressively on a daily basis and is cumulative.
- D.2.3. Whilst on recreation leave, shift workers will be entitled to a payment of 50 per cent of Saturday and Sunday penalties, except where one of those days is a public holiday.
- D.2.4. Where a public holiday occurs in a period of recreation leave, the public holiday will not be deducted from the employee's recreation leave credits.
- D.2.5. Deductions of recreation leave will be made on an hour-for-hour basis.
- D.2.6. Recreation leave credits for all employees will be calculated using the following formula:

$$\frac{A \times B \times C}{D}$$

where

A = the number of hours per week for period

B = the number of calendar days to count as service in period

C = basic annual credit of 4 weeks

D = the number of actual (calendar) days in the year of service

- D.2.7. Where leave without pay not to count as service has been granted, recreation leave credits will be adjusted as follows:
  - (a) where aggregated absences for periods total 30 calendar days or less in the preceding year the recreation leave accrual is not affected;
  - (b) where aggregated full-day absences total more than 30 calendar days the entire period of leave without pay is deducted from the number of calendar days to count as service un the formula above; and



- (c) when leave without pay covers an entire calendar year, no recreation leave credit accrues for that year.

D.2.8. Recreation leave is also able to be used where an employee:

- (a) has a long term illness; and
- (b) has exhausted all personal leave; and
- (c) has applied for recreation leave.

D.2.9. During a period of recreation leave, if an employee becomes entitled to another type of paid leave required to be granted, in accordance with the NES or other legislation, recreation leave will be re-credited to the extent of the other leave granted. Substitution of leave types is subject to the production of satisfactory evidence as determined by the NGA. Such leave types include, but may not be limited to, personal carer's leave, compassionate leave and community service leave.

D.2.10. An employee with an accrued credit of 40 days or less may take some or all of their recreation leave at half pay. Only half the period will be deducted from recreation leave credits and a minimum of five (5) full recreation leave days (e.g. 10 days recreation leave at half pay) must be taken at any one time.

D.2.11. Further information is available in the NGA's Employee Attendance Guidelines.

### **D.3 RECREATION LEAVE CASH OUT**

D.3.1. An employee may cash out recreation leave provided that the employee's remaining accrued entitlement is not less than 20 days. Each cashing out of a particular amount of recreation leave must be by a separate agreement in writing with the NGA.

D.3.2. The employee will be paid the full amount that would have been paid to the employee had the employee taken the leave that is cashed out. The NGA will not approve requests to cash out leave in accordance with this clause unless the employee has taken 15 days recreation leave in the 12 months immediately preceding the request to cash out leave.

### **D.4 EXCESS RECREATION LEAVE**

D.4.1. An employee's request to take recreation leave that has accrued will not be unreasonably refused.

D.4.2. Any recreation leave credits in excess of eight (8) weeks are called "excess recreation leave credits". The NGA may direct that the employee take up to 25% of this excess accrued leave, subject to the employee and their supervisor/manager first having attempted to reach agreement on the matter. The minimum notice required for such a direction to the employee is four (4) weeks.

D.4.3. An employee with excess credits will not be directed to take their leave if their manager has not appropriately accommodated the employee's request for recreation leave in the previous 12 months.

### **D.5 RECALL TO DUTY**

D.5.1. If an employee is recalled to duty during a period of recreation leave the employee will be re-credited with the period equivalent to the ordinary duty worked during the recreation leave and will have all reasonable costs (as determined by the Director

and not otherwise recoverable from other sources) associated with being recalled to duty, met by the NGA.

## **D.6 PERSONAL LEAVE**

- D.6.1. Ongoing employees, on appointment, and non-ongoing employees on contract for 12 months or more, will be credited on commencement with 18 days personal leave and will accrue an annual entitlement of 18 days personal leave credits at full pay each year on the anniversary of commencement (leave without pay, unauthorised absences, or prior service may affect this date), without limit throughout the employee's period of employment with the NGA.
- D.6.2. Employees engaged for a period of less than 12 months will accrue an amount of 1.5 days of paid personal leave for each completed month of continuous service. After 12 months of continuous service, the provisions for ongoing employees will apply.
- D.6.3. Employees who alternate between non-ongoing and casual contracts receive their personal leave accruals after working the equivalent full-time hours as specified above (not at the anniversary of commencement).
- D.6.4. Personal leave will not accrue where an employee has been absent on leave without pay for periods that exceed 30 calendar days and do not count as service, or for any unauthorised absence and will defer the accrual date.
- D.6.5. When taking personal leave, employees will provide evidence sufficient to satisfy a reasonable person.
- D.6.6. The Director may approve the anticipation of personal leave credit where an employee has exhausted all available paid personal leave. Employees must advise their manager as soon as is reasonably practicable of their absence or their intention to be absent. This will be in advance of the absence whenever possible.
- D.6.7. An employee may, subject to approval, take paid personal/carer's leave if the leave is taken:
  - (a) because the employee is not fit for work because of a personal illness, or personal injury, affecting the employee; or
  - (b) to provide care or support to a member of the employee's immediate family, or a member of the employee's household, who requires care or support because of:
    - (i) a personal illness, or personal injury, affecting the member; or
    - (ii) an unexpected emergency affecting the member.
- D.6.8. Documentary evidence should be provided for absences of three (3) consecutive days or more. With advance notice, a manager may require a medical certificate or other suitable supporting evidence for periods of less than three (3) days if there is some doubt that absences are consistent with the purposes specified above. No more than 10 days may be taken each year (measured from the employee's anniversary date of commencement) without providing supporting documentation unless the supervisor waives this requirement.
- D.6.9. An employee who is retired on the grounds of invalidity, and is subsequently reappointed as a result of action taken under Section 75 of the *Superannuation Act 1976*, is entitled to be credited with personal leave equal to the balance of personal leave, or equivalent leave types, in credit at the time of retirement.
- D.6.10. Personal leave will not be debited where an employee is medically unfit on a public holiday, which they would otherwise have observed.

D.6.11. An employee is unable to access paid personal leave while on paid maternity leave.

### **War service sick leave**

D.6.12. Employees who suffer from a war-caused or defence-caused medical condition may be entitled to war service sick leave. An eligible employee who provides a statement from the Department of Veterans' Affairs stating what condition(s) has been determined as being war-caused or defence-caused under relevant legislation will accrue two (2) separate credits of paid war service sick leave:

- (a) a special credit of nine (9) weeks' paid leave on first commencement; and
- (b) eligible employees will accrue an additional three (3) weeks for each year of service. Unused credits will accumulate to a maximum of nine (9) weeks.

D.6.13. Unused personal leave will not be paid out on separation.

## **D.7 LONG SERVICE LEAVE**

D.7.1. The entitlement to long service leave is provided for under the *Long Service Leave (Commonwealth Employees) Act 1976* (Long Service Leave Act).

D.7.2. Long service leave may be granted for a minimum period of seven (7) calendar days at full pay or 14 calendar days at half pay per occasion. Long service leave is not to be broken by other forms of leave unless required by legislation.

D.7.3. During a period of long service leave, if an employee becomes entitled to another type of paid leave required to be granted, in accordance with the NES or other legislation, long service leave will be re-credited to the extent of the other leave granted. Substitution of leave types is subject to the production of satisfactory evidence as determined by the NGA. Such leave types include, but may not be limited to, personal carer's leave, compassionate leave and community service leave.

## **D.8 COMPASSIONATE LEAVE**

D.8.1. If a person who is a member of the employee's immediate family or household dies, or has a personal illness or injury that poses a serious threat to his or her life, paid leave of two (2) days on each occasion may be granted to the employee on application. Employees will, if possible, provide medical evidence or other supporting evidence for compassionate leave. Casual employees may also access compassionate leave but in this case the leave will be unpaid.

## **D.9 MATERNITY LEAVE**

D.9.1. Eligible employees (those with at least 12 months of continuous service) are entitled to maternity leave in accordance with the *Maternity Leave (Commonwealth Employees) Act 1973* (Maternity Leave Act).

D.9.2. In order to provide for more flexible administration of maternity leave, an employee may elect to either:

- (a) take their entitlement of an up to 14-week period of absence (up to 12 weeks provided for by the Maternity Leave Act and an additional two (2) weeks) at full pay; or
- (b) spread the payment for any paid leave entitlement of up to 14 weeks over a maximum period of 28 weeks at a rate of half normal salary. The employer

superannuation component will continue to be paid for the duration of this period of maternity leave.

- D.9.3. Maternity leave beyond the first 14 weeks will not count as service for any purpose.
- D.9.4. Refer to the part-time clauses for details regarding access to part-time work following maternity leave.

## **D.10 SUPPORTING PARTNER LEAVE**

- D.10.1. Employees who are not entitled to maternity leave will be entitled to two (2) weeks' paid partner leave following the birth of a dependent child.

## **D.11 ADOPTION/LONG-TERM FOSTERING LEAVE**

- D.11.1. Eligible employees (those with at least 12 months of continuous service) may apply for adoption/long-term fostering leave from the date they assume responsibility as the primary carer of a child.
- D.11.2. Adoption/long-term fostering leave is available to employees with at least 12 months of continuous service, subject to the following provisions:
  - (a) the child is under 16 years of age;
  - (b) the child is not a step-child of the employee or a child who has previously lived continuously with the employee for more than 6 months; and
  - (c) the employee must provide adequate notice and documentary evidence of the pending adoption from an appropriate organisation.
- D.11.3. Where this leave is granted, the employee may elect to either:
  - (a) take their entitlement for their up to 14-week period of absence at full pay; or
  - (b) take the above mentioned up to 14-week payment over a maximum of 28 weeks.

## **D.12 PARENTAL LEAVE**

- D.12.1. In addition to the entitlements set out in this Agreement, eligible employees have entitlements to paid or unpaid leave in accordance with the relevant provisions of the Fair Work Act.
- D.12.2. Eligible employees are entitled to unpaid parental leave of up to 52 weeks (12 months) of leave in accordance with the NES. The maximum period of 12 months is reduced by any period of leave taken under sections D9 and D11.
- D.12.3. Upon request from the employee, the NGA will agree to an extension of unpaid parental leave for a further period of up to 12 months, immediately following the end of the initial 12-month period.
- D.12.4. An employee on parental or maternity leave will not be unattached from their position, and on ending parental or maternity leave, an employee is entitled to return to:
  - (a) the employee's pre-parental/maternity leave duties; or
  - (b) if those duties no longer exist, an available position for which the employee is qualified and suited at the same classification and pay as applied pre-parental/maternity leave.

- D.12.5. Subject to relevant superannuation legislation, the NGA will continue to pay the employer superannuation component during periods of unpaid maternity and parental leave to all complying superannuation funds.

### **D.13 PORTABILITY OF ACCRUED LEAVE**

- D.13.1. Employees recruited to the NGA directly from an APS agency or from the ACT Public Service will have their recognised and unused personal leave credits in their previous APS agency or ACT Public Service transferred, however defined. Recreation leave credits may be transferred by negotiation.
- D.13.2. Where an employee has previously been employed in the APS, government service as defined by section 10 of the Long Service Leave Act, or in eligible service prescribed in section 11 (2) of that Act, that previous service will be recognised for:
- (a) personal leave purposes, subject to any break between eligible employers being no more than two (2) months; and
  - (b) long service leave purposes, in accordance with the Long Service Leave Act. Recognition is subject to continuity of service requirements defined by section 12 of that Act (any break in service between eligible employment can be no greater than 12 months).
- D.13.3. The entitlement to these accrued credits of leave, and any future entitlements to recreation leave and personal leave, will be those prevailing in the NGA.

### **D.14 DEFENCE LEAVE (ADF RESERVE; CADET FORCE OBLIGATIONS)**

- D.14.1. 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.
- D.14.2. 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.
- D.14.3. 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.
- D.14.4. 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 (2) years, to enable the employee to undertake training as a member of the ADF Reserves.
- D.14.5. Employees are not required to pay their tax-free ADF Reserve salary to the NGA in any circumstances.
- D.14.6. ADF 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 recreation leave.
- D.14.7. Eligible employees may also apply for recreation 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.
- D.14.8. 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.

## **D.15 COMMUNITY SERVICE LEAVE**

- D.15.1. Employees will be entitled to be absent from work to perform eligible community service activities, including jury service and voluntary emergency management activities, in accordance with Division 8 of Part 2-2 of the Fair Work Act. For employees other than those employed on a casual basis, jury service will be paid leave. Employees are required to pay to the NGA any amount of jury service pay, but not expense monies, received by the employee.
- D.15.2. Leave approved for other community service activities including emergency services duties, will encompass leave for regular training, all emergency services responses, reasonable travel time, recovery time and ceremonial duties, and may be paid or unpaid, at the discretion of the Director, in accordance with clause D.17.1.

## **D.16 MOVING HOUSE LEAVE**

- D.16.1. One (1) paid day each calendar year will be provided to employees who are required to move house.

## **D.17 OTHER LEAVE**

- D.17.1. The Director may grant leave to an employee, either with or without pay, in circumstances not provided for elsewhere in this Agreement for a purpose that the Director considers to be in the interests of the Agency and having regard to operational requirements. Further detail can be found in the Employee Attendance Guidelines.
- D.17.2. Approved other leave with pay counts as service for all purposes. Approved other leave without pay, will not count as service for any purpose unless otherwise required by legislation.

## **D.18 PURCHASED LEAVE (EMPLOYEE FUNDED LEAVE)**

- D.18.1. The Purchased Leave Scheme enables employees to access up to four (4) weeks additional leave per year with salary deductions averaged over the whole year to ensure that a standard pay rate is received each fortnight. Leave must be used within 12 months of purchase or the balance of the leave will be repaid to the employee.
- D.18.2. All ongoing and non-ongoing employees are eligible to apply for purchased leave. Granting of purchased leave is subject to operational requirements.
- D.18.3. During a period of purchased leave, if an employee becomes entitled to another type of paid leave required to be granted, in accordance with the NES or other legislation, purchased leave will be re-credited to the extent of the other leave granted. Substitution of leave types is subject to the production of satisfactory evidence as determined by the NGA. Such leave types include, but may not be limited to, personal carer's leave, compassionate leave and community service leave.

## **D.19 PUBLIC HOLIDAYS**

D.19.1. Employees will be entitled to the following public holidays:

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

D.19.2. If under a state or territory law, a day or part-day is substituted for one of the public holidays listed above, then the substituted day or part-day is the public holiday.

D.19.3. The Director and an employee may agree on the substitution of a day or part-day that would otherwise be a public holiday, e.g. for a religious day of significance or for cultural purposes, having regard to operational requirements.

D.19.4. An employee, who is absent on a day or part-day that is a public holiday in the place where the employee is based for work purposes, is entitled to be paid for the part- or full-day absence as if that day or part-day was not a public holiday, except where that person would not normally have worked on that day.

D.19.5. Where a public holiday falls during a period when an employee is absent on leave (other than recreation 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).

D.19.6. Non-public contact areas of the NGA will close down during the period between Christmas and New Year and will re-open on the first working day after 1 January each year. NGA employees will not be required to use recreation leave or flextime for the working days during this period.

D.19.7. As the NGA is closed on Christmas Day, only Security Control Room staff are rostered or required to work.

D.19.8. Should operational requirements necessitate employees working on the days between Christmas and New Year's Day, a substitute period of time off will be granted.

## **PART E Collaborative and Supportive Work Environment**

### **E.1 CONSULTATION**

E.1.1. This term applies if the employer:

- (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 employees; or
- (b) proposes to introduce a change to the regular roster or ordinary hours of work of employees.

#### **Major change**

E.1.2. For a major change referred to in paragraph E.2.1(a):

- (a) the employer must notify the relevant employees of the decision to introduce the major change; and
- (b) subclauses E.2.3 to E.2.9 apply.

E.1.3. The relevant employees may appoint a representative for the purposes of the procedures in this term.

E.1.4. If:

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

the employer must recognise the representative.

E.1.5. As soon as practicable after making its decision, the employer 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 employer 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; and
  - (ii) information about the expected effects of the change on the employees; and
  - (iii) any other matters likely to affect the employees.

E.1.6. However, the employer is not required to disclose confidential or commercially sensitive information to the relevant employees.

E.1.7. The employer must give prompt and genuine consideration to matters raised about the major change by the relevant employees.



- E.1.8. 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 paragraph E.2.2(a) and subclauses E.2.3 and E.2.5 are taken not to apply.
- E.1.9. In this term, a major change is likely to have a significant effect on employees if it results in:
- (a) the termination of the employment of employees; or
  - (b) major change to the composition, operation or size of the employer's workforce or to the skills required of employees; or
  - (c) the elimination or diminution of job opportunities (including opportunities for promotion or tenure); or
  - (d) the alteration of hours of work; or
  - (e) the need to retrain employees; or
  - (f) the need to relocate employees to another workplace; or
  - (g) the restructuring of jobs.

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

- E.1.10. For a change referred to in paragraph E.2.1(b):
- (a) the employer must notify the relevant employees of the proposed change; and
  - (b) subclauses E.2.11 to E.2.15 apply.
- E.1.11. The relevant employees may appoint a representative for the purposes of the procedures in this term.
- E.1.12. 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.
- E.1.13. As soon as practicable after proposing to introduce the change, the employer must:
- (a) discuss with the relevant employees the introduction of the change; and
  - (b) for the purposes of the discussion--provide to the relevant employees:
    - (i) all relevant information about the change, including the nature of the change; and
    - (ii) information about what the employer reasonably believes will be the effects of the change on the employees; and
    - (iii) information about any other matters that the employer reasonably believes are likely to affect the employees; and
  - (c) invite the relevant employees to give their views about the impact of the change (including any impact in relation to their family or caring responsibilities).

- E.1.14. However, the employer is not required to disclose confidential or commercially sensitive information to the relevant employees.
- E.1.15. The employer must give prompt and genuine consideration to matters raised about the change by the relevant employees.
- E.1.16. In this term:  
“relevant employees” means the employees who may be affected by a change referred to in subclause E.1.3.

## **E.2 NGA CONSULTATIVE COMMITTEE**

- E.2.1. An NGA Consultative Committee (GCC) will be maintained to facilitate information sharing, consultation and discussion with employees. A Charter will be agreed through the GCC. The GCC will:
- (a) Be chaired by a senior member of management
  - (b) Aim to meet quarterly, and
  - (c) Oversee the implementation of this agreement
- E.2.2. The GCC will also take account of the views and feedback of employees and where they choose their representatives where an amendment to or introduction of new people policies that support the operation of the Agreement is proposed. Such comments or feedback will be taken into account prior to finalising the policy.
- E.2.3. The NGA will continue to consult through both formal and informal forums, including the GCC.

## **E.3 FREEDOM OF ASSOCIATION**

- E.3.1. The NGA recognises that employees are free to choose whether 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.

## **E.4 EMPLOYEE REPRESENTATION**

- E.4.1. An employee may have an employee representative, who may be a union representative, to represent them in their industrial interests. The role of workplace delegates, including union delegates, will be respected and facilitated.

## **E.5 ANTI-DISCRIMINATION AND WORKPLACE DIVERSITY**

- E.5.1. The NGA is committed to upholding the values of diversity in the workforce. The NGA will ensure compliance with sections 346 and 351 of the Fair Work Act, with the acknowledgement that nothing in these provisions allows for any treatment that would otherwise be prohibited by anti-discrimination provisions in applicable Commonwealth, State or Territory legislation.
- E.5.2. The NGA also maintains an up-to-date Workplace Diversity Plan which is made accessible to all employees.

## **E.6 COMMITMENT TO A SAFE AND HEALTHY WORK ENVIRONMENT**

- E.6.1. The NGA is committed to creating and maintaining a safe and healthy work environment. Responsibilities are outlined in the *Work Health and Safety Act 2011*.

## **E.7 EMPLOYEE ASSISTANCE PROGRAM**

- E.7.1. The NGA will provide employees and their immediate families with reasonable access to a confidential, professional counselling service at no cost to the individual to help them resolve either personal or work-related problems.

## **E.8 HEALTHY EMPLOYEES**

- E.8.1. To encourage healthy team activities, sporting teams representing the NGA, will be provided with up to \$500 towards registration, outfits, kits etc. The team should comprise predominantly NGA employees.

## **E.9 FINANCIAL PLANNING**

- E.9.1. All ongoing and non-ongoing employees, employed for periods of over 12 months and who are 50 years of age or over are entitled to a one-off reimbursement of retirement planning advice, up to a total of \$400.

## **E.10 EXTRA DEPENDANT CARE COSTS**

- E.10.1. Where an employee is required by the NGA to be away from home outside normal working hours, the Director will reimburse reasonable costs in relation to additional family care arrangements, in cases of exceptional circumstances e.g. required to travel with 24 hours or less notification.

## **E.11 EYESIGHT TESTING**

- E.11.1. Eyesight testing may be requested by employees who are engaged in tasks involving screen based equipment (SBE) and/or specialised work tasks which require particular visual acuity not normally required for general tasks (e.g. microscopy).
- E.11.2. Employees are entitled to testing every two (2) years unless symptoms occur which indicate that further testing is necessary. Employees applying for testing more frequently than biennial intervals should support their application with medical evidence.
- E.11.3. For other tasks which require particular visual acuity (other than screen-based work), the range of tests and testing procedures will be set as recommended by the Health and Safety Committee.
- E.11.4. The NGA will meet the reasonable costs of screening and full vision examination by an optometrist, including ophthalmologist fees (where necessary), and will meet the reasonable costs of the initial examination, and the review examination (if required). The NGA will meet the reasonable cost of spectacles prescribed when they are certified as necessary to achieve vision to perform tasks associated with SBE, and/or undertake specialised work tasks which require particular visual acuity not normally required for general tasks (e.g. microscopy).
- E.11.5. Reasonable costs are 80% of the receipted costs (original receipts only) to a maximum of \$200 for single vision spectacles and \$260 for bifocal or multi-focal lenses. If an employee is claiming the gap between their health fund payment and the cost of the spectacles a receipt/statement from the fund of the amount claimed/paid will be required.
- E.11.6. For more information refer to the NGA's Eye Health Policy.

## **PART F MANAGING FOR BETTER PERFORMANCE**

### **F.1 PERFORMANCE MANAGEMENT STRATEGY**

#### **Individual Development and Performance Agreements**

- F.1.1. Individual Development and Performance Agreements (IDPAs) are an essential component of the NGA's strategies to manage performance. All employees, (except for those whose employment contract is for a period of less than 6 months), are to prepare an IDPA with their supervisor.
- F.1.2. IDPAs serve three purposes:
- (a) to ensure alignment of individual effort to the NGA's strategic goals
  - (b) to enable employees to undertake appropriate career planning and to consider their training and development requirements, and
  - (c) to provide a mechanism for assessing suitability for salary advancement, if eligible.
- F.1.3. The IDPA cycle will be from 1 September to 31 August with a mid-term review being undertaken in March and the final review being completed by 31 August.
- F.1.4. As the IDPA is a living document, changes to work programs or to the ability to perform work resulting from disruptions to the work environment must be reflected through an updated IDPA.
- F.1.5. Where a supervisor considers that health and/or personal matters may be contributing to an employee's poor performance, they will, in the first instance, discuss their concerns with the individual.

### **F.2 CAPABILITY DEVELOPMENT AND CONTINUING PROFESSIONAL DEVELOPMENT**

- F.2.1. The NGA is committed to ensure all employees have access to capability and professional development opportunities to ensure the maintenance of professional standards of employees so that they have the skills required for their current position and their future career at the NGA. These opportunities are provided through a framework of NGA policies and procedures which facilitate access for staff to organisational-level opportunities to develop and use their skills. This is reinforced by supervisor-led support, encouragement and opportunities and employee-led responsibility for development needs which are raised and addressed through the NGA's IDPA process.

### **F.3 STUDY SUPPORT SCHEME**

- F.3.1. The NGA encourages its employees to undertake formal study in fields directly relevant to the employee's position, that link to the achievement of the NGA's corporate goals and which enhance professional development in line with their IDPAs.
- F.3.2. The NGA (at the discretion of the Director) may grant up to 70 hours paid study leave per semester for study activities approved under the NGA's Study Support Scheme. Employees undertaking: external studies/distance education, face to face activities that fall outside ordinary working hours, or study activities related only to the preparation and presentation of a thesis, may apply to the Director for leave with full pay to travel to and from residential courses or seminars, or any other study

activities required for successful completion of the course of study and up to 42 hours per semester. Where extenuating circumstances exist, the Director may grant additional study leave for tuition purposes. Each case will be considered on its merits.

- F.3.3. Study leave with pay counts as service.
- F.3.4. Study leave without pay may also be granted by the NGA. However, it is limited to 12 months unless under exceptional circumstances.
- F.3.5. In addition, the NGA will offer financial assistance to help employees with approved studies up to \$1,500 per annum (maximum of \$750 per semester) to help meet compulsory costs such as course fees and textbooks.

#### **F.4 MANAGING UNDERPERFORMANCE**

- F.4.1. If at any time, poor performance is identified, the supervisor and the employee are to work together through performance counselling, guidance and regular feedback to bring performance back to the standard expected. Where, despite such efforts, an employee's performance continues to fall below the expected standard, a period of formal performance counselling and assessment will commence.
- F.4.2. Further detail can be found in the NGA's managing under-performance procedures and includes the requirement to formally notify the employee in writing of the following:
  - (a) how the employee's performance is not meeting the required standard
  - (b) that performance will need to improve
  - (c) how the employee's performance will be assessed, and over what period of time (normally 12 weeks), and
  - (d) the possible consequences if the employee has not attained and sustained the required standards by the end of the assessment period.
- F.4.3. The formal performance counselling period is aimed at enabling the employee to attain and sustain effective performance. The supervisor is to support the employee throughout this process. The supervisor is to:
  - (a) set realistic and achievable expectations
  - (b) focus on the areas requiring improvement and
  - (c) extend the assessment period where the employee has not had a reasonable opportunity and period of time to improve their performance.
- F.4.4. An employee has the right to be represented during under-performance discussions between the employee and their manager.
- F.4.5. Where an employee's performance remains unsatisfactory following the formal assessment period, the Director will determine what action to take ranging from reassignment of duties to termination. Prior to taking that action the Director will provide the employee with an opportunity to respond to the proposed course of action.

## **F.5 CODE OF CONDUCT**

- F.5.1. The NGA sets out conduct and behavioural expectations for employees in the NGA's Code of Conduct.
- F.5.2. Breaches of the NGA's Code of Conduct are defined as misconduct and/or serious misconduct.
- F.5.3. 'Misconduct' means dereliction of duty or wilful conduct that is unsatisfactory. In deciding whether conduct is misconduct, decision makers will have regard to the NGA's Code of Conduct document.
- F.5.4. 'Serious misconduct' means a recurrence or continuation of conduct which has been previously found to be misconduct on the part of the employee; or serious misbehaviour, which may be a single occurrence, of a kind which constitutes:
- (a) a serious impediment to the carrying out of an employee's duties, or to other staff carrying out their duties;
  - (b) a serious risk to the safety of staff or other persons in the NGA;
  - (c) a serious risk to the NGA's property;
  - (d) a serious dereliction of duties; or
  - (e) a conviction by a court of an offence which constitutes a serious impediment to the carrying out of the duties.
- F.5.5. The principles of procedural fairness and natural justice will be applied to all misconduct and serious misconduct processes. Further information is available in the Code of Conduct policy that includes misconduct provisions.
- F.5.6. Disciplinary action may be recommended in instances of misconduct (including serious misconduct). If there is a suspected breach of the Code of Conduct, an investigation will take place.
- F.5.7. An employee may choose to be represented at any stage of the process associated with the investigation and determination of a breach of the Code of Conduct. The NGA will recognise that representation.
- F.5.8. Pending the outcome of an investigation where disciplinary action is required the Director may:
- (a) temporarily move an employee to another location; or
  - (b) reassign the employee to different duties; or
  - (c) suspend an employee from duty for the duration of the investigation. For the duration of the suspension the employee will continue to be paid unless the nature of the suspected breach constitutes 'serious misconduct' as defined in the NGA's Code of Conductor in which case the Director will determine if the period of suspension will be paid or unpaid.
- F.5.9. Subject to the outcome of an investigation, the Director may apply one or more sanctions as follows:
- (a) formal reprimand and/or warning;
  - (b) remedial action to restore any financial or other loss;
  - (c) re-assignment of duties;
  - (d) impose conditions on further employment;

- (e) withholding a salary advancement;
  - (f) reduction in classification and salary; and/or
  - (g) termination of employment.
- F.5.10. Prior to imposing a sanction the Director will provide the employee with an opportunity to respond to the proposed action to be taken by the Director. An employee will be required to respond within seven (7) working days. This period may be extended at the discretion of the Director.
- F.5.11. In instances of disciplinary action (with the exception of termination of employment) the employee may seek a review of the decision. Further information is available in the NGA's Guidelines on Review of Employment Related Actions/Decisions.

## **PART G REDEPLOYMENT, RETIREMENT, REDUNDANCY AND EMPLOYEE INITIATED SEPARATION (RESIGNATION)**

### **G.1 REDEPLOYMENT, RETIREMENT AND REDUNDANCY**

- G.1.1. These provisions apply only to ongoing employees. They do not apply to employees on probation or employees employed for a specified period.
- G.1.2. The following redeployment, retirement and redundancy provisions will apply to excess employees of the NGA.

### **G.2 CONSULTATION PROCESS**

- G.2.1. When the Director is aware that an employee is likely to become excess, the Director will, at the earliest practicable time, advise the situation in writing to the employee(s) and where they choose, their representative.
- G.2.2. Where the employee nominates a representative they wish to be involved in this matter, the Director will hold discussions (the discussion period not exceeding one (1) month with the employee and their representative to consider:
  - (a) measures that could be taken to resolve the situation, including redeployment and retraining opportunities for the employee at or below their permanent classification level; and
  - (b) whether voluntary retrenchment might be appropriate.
- G.2.3. Where 15 or more employees are likely to become excess the Director will comply with the notification provisions contained in sections 530 and 531 of the Fair Work Act.
- G.2.4. The Director may, prior to the conclusion of these discussions, invite employees who are not excess employees to express interest in voluntary retrenchment, where the retrenchment of those employees would permit the redeployment of employees who are in a redundancy situation and who would otherwise remain excess.
- G.2.5. The Director will identify the employees who are excess to the NGA's requirements:
  - (a) after the discussions specified above have been held; or
  - (b) where the employee or the employee's representative has declined to discuss the matter, one month after the Director has advised the employee; and
  - (c) whichever is the lesser, and may immediately advise those employees in writing that they are excess.
- G.2.6. The Director will then establish through consultation with the identified employees, which employees want to be offered voluntary retrenchment immediately and which employees seek redeployment.
- G.2.7. The Director will take all reasonable steps, consistent with the interests of the efficient administration of the NGA, to transfer an excess employee to a suitable vacancy at the same level within the NGA.



### **G.3 VOLUNTARY RETRENCHMENT**

- G.3.1. Where the Director invites an excess employee to accept voluntary retrenchment, subject to the below clause being met, the employee will have one (1) month in which to accept the offer.
- G.3.2. Within the first two (2) weeks of that month, an employee invited to accept voluntary retrenchment must be given advice on the:
- (a) amount of severance pay, pay in lieu of notice and paid up leave credits;
  - (b) amount of accumulated superannuation contributions;
  - (c) options open to the employee concerning superannuation (through ComSuper or another provider); and
  - (d) taxation rules applying to the various payments (through the Australian Taxation Office).
- G.3.3. Where the offer is accepted, the Director will not give notice of retirement before the end of the one (1) month period, unless the employee has received all of the above information, and chooses to waive the remainder of the period.
- G.3.4. In addition, financial assistance will be provided (up to a maximum of \$400) for financial advice.
- G.3.5. Only one (1) offer of voluntary retrenchment will be made to an excess employee.

### **G.4 PERIOD OF NOTICE**

- G.4.1. Where the excess employee agrees to be voluntarily retrenched, the Director may retrench the employee by giving the required notice of termination. The period of notice will be four (4) weeks (or five (5) weeks for an employee over 45 with at least five (5) years of continuous service).
- G.4.2. Where an employee retires or is retired at the beginning of, or within, the notice period, the employee will receive payment in lieu of notice as set out in the Fair Work Act for the unexpired portion of the notice period.

### **G.5 SEVERANCE BENEFIT**

- G.5.1. An employee retrenched in accordance with the above clauses is entitled to be paid a sum equal 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 subject to any minimum amount the employee is entitled to under the NES.
- G.5.2. The minimum sum payable will be four (4) weeks salary and the maximum will be 48 weeks salary.
- G.5.3. The severance benefit will be calculated on a pro-rata basis for any period where an employee has worked part-time hours during their period of service and the employee has less than 24 years full-time service.
- G.5.4. Service for severance pay purposes means:
- (a) service in the NGA;
  - (b) Government service as defined in section 10 of the Long Service Leave Act;

- (c) service with the Commonwealth (other than service with a joint Commonwealth-State body corporate in which the Commonwealth has a controlling interest) which is recognised for long service leave purposes;
- (d) service with the Australian Defence Force; and
- (e) service in another agency, where the employee was transferred from the APS to that agency with a transfer of function; or an employee engaged by that agency on work within a function is appointed as a result of the transfer of that function to the APS; and such service is recognised for long service leave purposes.

G.5.5. For earlier periods of service to count there must be no breaks between the periods of service, except where:

- (a) 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
- (b) 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*.

G.5.6. Any period of service which ceased by way of retrenchment; retirement on grounds of invalidity; inefficiency or loss of qualifications; forfeiture of office; dismissal; termination of probation appointment for reasons of unsatisfactory service; or voluntary retirement at or above the minimum retiring age applicable to the employee or with the payment of an employer-financed retirement benefit will not count as service for severance pay purposes.

G.5.7. Absences from work which do not count as service for long service leave purposes will not count as service for severance pay purposes.

## **G.6 RATE OF PAYMENT - SEVERANCE BENEFIT**

G.6.1. For the purpose of calculating any payment under these clauses, salary will include:

- (a) the employee's salary at their substantive classification level; or
- (b) the salary of the higher work value level, where the employee has been working at the higher level for a continuous period of at least 12 months immediately preceding the date on which the employee is given notice of retirement;
- (c) shift penalties, where the employee has undertaken shift work and is entitled to shift penalties for 50% or more of the pay periods in the 12 months preceding being given notice of retirement. A weekly average of penalties due over the 12 months will be included in the salary; and
- (d) other allowances in the nature of salary which are paid during periods of recreation leave and on a regular basis, excluding allowances which are a reimbursement for expenses incurred, or a payment for disabilities associated with the performance of duty.

## **G.7 RETENTION PERIODS, REDEPLOYMENT AND RETRAINING**

G.7.1. Unless the employee agrees, an excess employee will not be involuntarily retired until the following retention periods have elapsed:

- (a) 13 months where an employee has 20 or more years of service or is over 45 years of age; or
- (b) seven (7) months for other employees.

If an employee is entitled to a redundancy payment under the NES, their retention period will be reduced by the employee's redundancy pay entitlement under the NES on termination, calculated as at the expiration of the retention period (as adjusted by this clause).

G.7.2. The retention period will commence on the earlier of the following:

- (a) the day the employee is advised in writing by the Director that they are an excess employee; or
- (b) one (1) month after the day on which the Director invites the employee to accept voluntary retrenchment.

G.7.3. The retention period will be extended by any periods of certified sick leave taken during the retention period.

G.7.4. During the retention period the Director will continue to take reasonable steps to find alternative employment for the excess employee, which may include retraining.

G.7.5. During the retention period the Director may, with 4 weeks' notice, transfer the excess employee to a job with a lower classification. Where this occurs before the end of an employee's retention period, the employee will receive income maintenance to maintain their salary at the previous higher level for the balance of the retention period.

G.7.6. The Director may approve an excess employee's request for assistance in meeting reasonable travel and incidental expenses incurred in seeking alternative employment.

G.7.7. Excess employees and potentially excess employees will be considered for vacant positions in isolation from and not in competition with other applicants for an advertised vacancy for which an excess employee seeks transfer. In order to be successful, the excess employee must demonstrate they possess the ability to perform the tasks of the position to a competent level within a reasonable period.

G.7.8. An excess employee required to move the employee's household to a new locality as a result of a transfer or reduction in classification will be entitled to reasonable expenses.

G.7.9. Where the Director is satisfied that there is insufficient productive work available for the employee within the NGA during the remainder of their retention period the Director may, with the agreement of the employee, terminate the employee's employment and pay the balance of the retention period as a lump sum and this payment will be taken to include the payment in lieu of notice of termination.

G.7.10. Upon termination of employment, the employee will be paid a lump sum comprising:

- (a) the balance of the retention period (as shortened for the NES) 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 the NES component.

## **G.8 INVOLUNTARY RETIREMENT**

- G.8.1. Subject to the clauses immediately below, the Director may involuntarily retire an excess employee at the end of the retention period.
- G.8.2. An excess employee will not be retired involuntarily if the employee has not been invited to accept an offer of voluntary retrenchment or has elected to be retired but the Director has refused to approve it.
- G.8.3. An excess employee will not be retired involuntarily without being given four (4) weeks' notice (or five (5) weeks' notice for an employee over 45 with at least five (5) years of continuous service) of termination or payment in lieu of notice.
- G.8.4. The specified periods of notice will as far as practical be concurrent with the retention period.

## **G.9 ACCELERATED SEPARATION ARRANGEMENTS FOR REDUNDANCY PURPOSES**

- G.9.1. The Director may provide employees likely to be subject to the Redeployment, Retirement and Redundancy provisions of this Agreement with an accelerated separation option. In these circumstances the Director will, as soon as reasonably practicable, advise the employee, and where they choose their representative which may include the relevant union.
- G.9.2. 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 who retire within 14 days of receiving it, an amount of eight (8) weeks' salary (or nine (9) weeks' salary for an employee 45 years of age with at least five (5) years of continuous service). The payments made under this clause are inclusive of any award or statutory entitlement to payment in lieu of notice.
- G.9.3. This option is available to employees whose employment at the NGA is terminated 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 Director will hold discussions with the employee and their representative.
- G.9.4. Employees who may be considering accelerated separation arrangements for redundancy purposes are encouraged to seek financial advice prior to making their decision.
- G.9.5. Where an employee has elected not to accept an offer under this option, the Redeployment, Retirement and Redundancy provisions of this Agreement will then apply.

## **G.10 EMPLOYEE INITIATED SEPARATION - RESIGNATION**

- G.10.1. Where an employee wishes to resign from their employment at the NGA, they are required to give two (2) weeks' notice (four (4) weeks for NGA Level 6 and EL staff) of their intention to resign unless otherwise agreed. This notice period will enable the employee to complete outstanding tasks and / or hand over work to other employees, and will allow the NGA to commence action to fill the position and to process the employee's final entitlements.

- G.10.2. Where it is feasible, employees will be encouraged to exhaust all of their accumulated recreation and flex leave credits before commencement of any other leave without pay.

#### **G.11 REVIEW OF DECISIONS TO TERMINATE EMPLOYMENT**

- G.11.1. The sole and exhaustive rights and remedies of an employee in relation to termination of employment are those that the employee enjoys under Part 3-2 of Chapter 3 and Part 6-4 of the Fair Work Act, other Commonwealth laws (including the Constitution), and at common law.
- G.11.2. Termination of, or a decision to terminate, employment cannot be reviewed under the dispute prevention and settlement procedures / review of employment related actions procedures in this Agreement.
- G.11.3. Nothing in this Agreement prevents the NGA from terminating the employment of an employee for serious misconduct, without further notice or payment in lieu, in accordance with section 123 of the Fair Work Act.

## **PART H REMUNERATION, ALLOWANCES AND REIMBURSEMENTS**

### **H.1 PAY RATES**

#### **Payment of Salary**

- H.1.1. Employees will be paid fortnightly, in arrears, and the fortnightly rate of pay will be calculated using the following formula:

$$\text{Fortnightly pay} = \text{Annual Salary} \times 12/313$$

#### **Rate of Salary – Non-ongoing Irregular or Intermittent (Casual) Employees**

- H.1.2. Irregular or intermittent (casual) employees are paid for actual hours worked and shall be paid a 20% loading in lieu of all paid leave entitlements except long service leave, which is covered by the provisions of the Long Service Leave Act.

#### **Method of Payment**

- H.1.3. Employees will have their fortnightly salary paid by electronic funds transfer into a financial institution.

#### **Salary increase**

- H.1.4. NGA employees will be recipients of the following salary increases.
- H.1.5. The initial across-the-board increase of 3% as detailed in Appendix 1 is payable with effect from the first full pay fortnight after or on the commencement of the Agreement, whichever is the earlier,
- H.1.6. Salary rates will be increased by 2% as detailed in Appendix 1 with effect 12 months from the commencement of this Agreement, and
- H.1.7. Salary rates will be increased by 1% as detailed in Appendix 1 with effect 18 months from the commencement of this Agreement

#### **Salary on commencement or promotion**

- H.1.8. Where an employee commences in the NGA, salary will be payable at the minimum point of the salary range applicable to the classification of the job, unless the Director authorises payment of salary above the minimum point in that salary range, having regard to the experience, qualifications and skills of the new employee.
- H.1.9. Where an employee is promoted within the NGA, salary will be payable at the minimum point of the salary range applicable to the classification of the job, unless the Director authorises payment of salary above the minimum point in that salary range, having regard to any prior performance at that classification by the employee.
- H.1.10. Where, at the time of appointment/promotion, an employee's salary is set at an inappropriate salary point within the applicable salary scale, the Director may determine in writing the payment of the employee's salary at the appropriate salary point.

## **Salary Advancement**

- H.1.11. Each classification level has a salary range and one or more pay points attached to it. Advancement through pay points within each classification level will be based on an assessment of an employee's performance in the context of the employee's effectiveness in performing their roles and responsibilities as outlined in the IDPA. Refer to section B.3 for advancement between classifications in a broadband.
- H.1.12. Subject to satisfactory performance, all employees have a common salary advancement date of 1 October. New ongoing and non-ongoing employees commencing duty with the NGA after 1 October and prior to 31 March will be eligible for salary advancement, subject to satisfactory performance, on 1 October of their first year of employment.
- H.1.13. New ongoing employees and non-ongoing employees commencing duty between 1 April and 30 September will be eligible for salary advancement on 1 October of their second year of employment.
- H.1.14. Where it is considered an employee has demonstrated outstanding performance over an annual IDPA cycle they may have salary advancement within a single classification accelerated with approval of the Director. Accelerated advancement through the hard barrier of a broadbanded position is not possible, as the employee must be at the top pay point of the lower classification for a period of twelve months before progressing through the broadband.
- H.1.15. Irregular (casual) employees are required to work 60% or more of a full time equivalent over the IDPA cycle in order to be eligible for salary advancement. This equates to 157 working days.

## **Supported Wage System**

- H.1.16. An employee who is affected by a disability may be eligible for a supported wage. Details can be found at Appendix 4.

## **Salary on Reduction**

- H.1.17. Where an employee permanently transfers to a lower classification (for reasons other than misconduct or under-performance), the Director will determine in writing that the employee's salary will be at the top salary point level in the lower classification.
- H.1.18. Where an employee is involuntarily transferred, the Director may grant the payment of income maintenance for a period of up to six (6) months to assist the employee during the transitional period.

## **Payment on death**

- H.1.19. Where an employee dies, or the Director has directed that an employee will be presumed to have died on a particular date, the Director may authorise the payment of the amount to which the former employee would have been entitled if the employee had ceased employment by resignation or retirement. Long service leave credits will be paid out in accordance with the Long Service Leave Act.
- H.1.20. Payment may be made to dependants or the partner of the former employee or the former employee's legal personal representative. If a payment has not been made within 12 months of the former employee's death, it should be paid to the legal personal representative.

## **H.2 EMPLOYER SUPERANNUATION CONTRIBUTIONS**

- H.2.1. The NGA will make compulsory employer contributions as required by the applicable legislation and fund requirements. The NGA's default superannuation scheme is the PSSap.
- H.2.2. Where an employee has chosen an accumulation superannuation fund other than the PSSap, the employer contribution will be the same percentage of the fortnightly superannuation contribution salary as that required for employees who are members of PSSap. This will not be reduced by any other contributions made through salary sacrifice arrangements. This does not apply where a superannuation fund cannot accept employer superannuation contributions (e.g. unable to accept contributions for people aged over 75).
- H.2.3. Employer superannuation contributions will not be paid on behalf of employees during periods of unpaid leave that does not count as service, unless otherwise required under legislation (see also clause D.12.5).
- H.2.4. The Director 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 NGA payroll system.

## **H.3 SALARY PACKAGING**

- H.3.1. Access to the NGA Salary Packaging Scheme is available to all ongoing and non-ongoing employees whose current period of engagement is over 12 months.
- H.3.2. All costs, including any fringe benefits tax and administrative costs incurred as a result of the remuneration packaging arrangement will be met by the employee.

## **H.4 OVERTIME**

- H.4.1. Flextime will generally be used to meet operational requirements between the hours of 7.00am to 7.00pm Monday to Friday.
- H.4.2. However, it is recognised that operational requirements will on occasions require employees to work outside the bandwidth hours or in excess of 10 hours on any one day.
- H.4.3. Where operational requirements necessitate, a manager may direct an employee to work overtime. If the employee has reasonable concerns that the direction to work overtime places them in an unreasonable situation due to their family responsibilities, personal circumstances and/or their health and safety, they may decline.
- H.4.4. Overtime is payable to employees, other than Executive Level employees, for work performed at the request of, or with the prior approval of their manager, that is outside the bandwidth hours, or in excess of 10 hours in any 24-hour period.
- H.4.5. Overtime duty is payable at the following rates in accordance with the provisions outlined below:
  - (a) Monday – Saturday: time and a half for each hour worked for the first three (3) hours, and (outside bandwidth hours) double time for each hour worked thereafter
  - (b) Sunday: double time for each hour worked



- (c) Public holidays: time and a half for each hour worked within standard hours (as employees are already receiving payment for the public holiday at single time rates); and
  - (d) Public holidays (outside standard hours): double time and a half for each hour worked.
- H.4.6. Employees called for duty to meet an emergency situation, recognising pre-approval may not always be possible, and who had no notification prior to ceasing ordinary duty will be entitled to either payment of overtime or time off in lieu, with a minimum payment of two (2) hours at the double time rate. Thirty (30) minutes travelling time will be paid when less than two (2) hours' notice has been provided.
- H.4.7. Employees who are required to work overtime on a weekend are entitled to either payment of overtime or time off in lieu, with a minimum payment of two (2) hours at the appropriate rate.
- H.4.8. Where an employee who has a flex debit is directed to work overtime, they should eliminate their flex debit (at the overtime rate) before overtime is payable.
- H.4.9. Employees are required to have a rest break, including travelling time, of at least nine (9) hours between ceasing duty on any day and commencing work on the next day (or shift). Where such a break is not possible, the staff involved will be paid double ordinary time rates until they have such a break.

#### **Time off in Lieu of overtime**

- H.4.10. Employees working authorised overtime who do not have a flex debit may take their overtime entitlement as time off in lieu (TOIL), calculated at the applicable overtime rate. In cases where TOIL has been granted but operational requirements have prevented the employee from taking time off within four weeks, or other agreed period, but no longer than three (3) months, payment of TOIL will be made.

### **H.5 SHIFT PENALTY PAYMENTS**

- H.5.1. Employees, including non-ongoing employees, who are required to perform rostered work over a seven-day roster, will be entitled to prescribed shift penalty payments as follows:
- (a) Shift penalty payment rates are as follows:
    - (i) 15% additional to the ordinary rate of pay for rostered shifts commencing prior to 0630hrs or finishing after 1800hrs Monday to Friday;
    - (ii) 50% additional to the ordinary rate of pay for all rostered time of ordinary duty performed on Saturday;
    - (iii) 100% additional to the ordinary rate of pay for all rostered time of ordinary duty performed on Sunday;
    - (iv) 150% additional to the ordinary rate of pay for all rostered time of ordinary duty performed on a public holiday where a shift worker does not observe the public holiday; and
    - (v) Shift penalty payments will not be taken into account in the calculation of any allowance based upon salary.

- H.5.2. A shift worker on a seven-day rotating shift roster who is rostered off duty on a public holiday may be granted, if practicable, within one (1) month after the holiday, one (1) day's leave in lieu of the holiday. The leave granted is equal to the number of hours the employee would have worked on that day if they had not taken the day as leave in lieu of the public holiday. Or, if the employee chooses, they may be paid one (1) day's pay at the ordinary rate. One (1) day's pay in this case means the payment the employee would have received for the public holiday if they were not a shift worker - for example, 7 hours 30 minutes.
- H.5.3. For shiftworkers, duty will be considered overtime where it is performed on any day which is outside the normal rostered standard hours and/or is in excess of the weekly standard hours or an average of the weekly standard hours over a cycle of shifts.
- H.5.4. Where necessary as a means of meeting operational requirements, the NGA may introduce shiftwork or a new shift roster or cycle of shifts following consultation with affected employees and workplace representative(s).
- H.5.5. Security Control Room employees are required to work an eight hour shift, with 30 minutes of this shift calculated at overtime rates. Overtime is only paid for shifts actually worked.

## **H.6 ALLOWANCES**

### **Higher Duties Allowance (HDA)**

- H.6.1. An employee may be paid an allowance in recognition of higher duties when that employee is directed by the Director to carry out duties that are of a higher Work Level Standard than the employee's usual classification and that period of higher duties is for more than two (2) continuous weeks. The period will be four (4) weeks if acting in a Senior Executive role. Employees in Security, the NGA Shop or Front of House, required to undertake the duties of a higher position because there is no senior employee on duty will be paid higher duties allowance for the whole period of acting, i.e. there is no requirement for a minimum period of 2 weeks.
- H.6.2. The amount of the HDA will be the difference between the employee's substantive salary and the base classification level of increase. Higher duties may be paid at a partial performance rate, in which case the higher duties allowance will be the difference between the substantive salary and the agreed partial performance pay point.
- H.6.3. Employees undertaking higher duties at a partial performance level will have their performance assessed at three-monthly intervals to determine the continuing suitability of the arrangement.
- H.6.4. Where employees are required to temporarily perform work in positions above the EL2 level for more than four (4) weeks, they will be remunerated at a rate determined by the Director for the period of temporary higher performance.

### **First Aid / Health and Safety Representative Allowance**

- H.6.5. An employee who possesses a current first aid certificate and who is designated by the Director to undertake first aid responsibilities within the NGA or who is an elected HSR will be paid an allowance of per fortnight. This allowance will increase by 3% the first full pay period following commencement of the Agreement, by 2% 12 months after commencement and a further 1% 18 months after commencement of the EA. Where an employee covers both roles only one allowance will be paid. Where a deputy HSR or deputy First Aid Officer performs the duties for a period of four (4) weeks or more they may be paid an allowance in accordance with this clause.

### **Motor Vehicle Allowance**

- H.6.6. Where the Director considers that it will result in greater efficiency or involve less expense, the Director may authorise an employee to use a private vehicle owned, or hired by the employee at their own expense, for official purposes, subject to the employee providing proof that, for the period of the journey, they have comprehensive insurance on the vehicle, that the vehicle is registered, and that they possess a current driver's licence.
- H.6.7. Where so authorised, an employee will be entitled to a motor vehicle allowance as per current Australian Taxation Office rates for vehicles of any engine capacity. Consideration may be given to vary this amount in exceptional circumstances.

### **Laundry Allowance**

- H.6.8. Staff who are required to wear an NGA uniform or corporate wardrobe as part of their normal duties will be paid an allowance of \$12.00 per fortnight for employees wearing a 'casual' uniform and \$20.00 per fortnight for employees wearing a 'corporate' uniform (that is, one that requires dry cleaning).
- H.6.9. Casual staff wearing a uniform will be paid a daily allowance of \$1.20 for a 'casual' uniform and \$2.00 for a 'corporate' uniform, to a maximum of the fortnightly allowance.
- H.6.10. Where an employee is on leave for a period of four (4) weeks or more they will not receive payment for this allowance for the period of the leave.

### **Footwear Reimbursement**

- H.6.11. Employees who are required to wear a uniform, and spend more than 75% of their time standing, will be reimbursed up to \$275 per annum to purchase shoes as part of their uniform.
- H.6.12. When purchasing shoes as part of a uniform, employees will have regard to any internal guidelines issued by the NGA.

### **Trade Related Allowances**

- H.6.13. Refer Appendix 3 for details of allowances payable to trades and related staff.
- H.6.14. Where an employee is on leave, with the exception of long service leave, for a period of 4 weeks or more, they will not receive payment for these allowances for the period of leave. Allowances during long service leave will be paid in accordance with the LSL Act.

### **Restriction Allowance**

- H.6.15. The Director may direct an employee to be contactable and to be available to perform extra duty outside of the employee's ordinary hours of duty, subject to payment of restriction allowance under this clause.
- H.6.16. Payment of restriction allowance is subject to the following conditions:
- (a) employees above the classification of NGA Level 6 will not be eligible to receive payment;
  - (b) the restriction situation is imposed by the prior written direction of the Director, or is subsequently approved in writing by the Director where the circumstances did not permit prior direction; and
  - (c) the flextime bandwidth provisions will not apply where an employee is recalled to duty while restricted.

- H.6.17. An employee who is required to remain contactable and available to perform extra duty outside the employee's ordinary hours of duty will, subject to this clause, be paid an allowance calculated on the number of hours restricted at a rate of 10% of the employee's hourly salary for each hour restricted.
- H.6.18. An employee's salary for the purpose of calculation of the allowance under this clause will include higher duties allowance and any other allowances in the nature of salary, up to the maximum of an NGA Level 6 employee.
- H.6.19. The allowance under this clause will be payable for the number of hours that the employee is restricted outside the employee's ordinary hours of duty.
- H.6.20. An employee who is restricted under this clause outside the employee's normal hours and is called to duty:
- (a) not at a place of work, payment will be made in accordance with the relevant overtime provisions subject to a one (1) hour minimum payment; and
  - (b) at a place of work, payment will be made in accordance with the relevant overtime provisions subject to a three (3) hour minimum payment. Thirty minutes travelling time will be paid for employees called into duty at work for periods of more than three (3) hours.
- H.6.21. No concurrent payment: Any part of a period of restriction in respect of which the employee receives payment other than in accordance with this clause will not be included in the period of restriction for calculating payments.

*Availability: No payment will be made to an employee under this subclause for any period in which the employee does not remain contactable or at the required degree of readiness to perform extra duty.*

## **H.7 TRAVEL**

- H.7.1. If not issued with an Australian Government Travel Card, an employee who is required by the Director to be absent overnight from their usual place of work on official business within Australia will have their actual reasonable costs of hotel/motel accommodation and meals and incidentals met. The maximum reasonable costs will be those identified and published by the Australian Taxation Office. Any additional accommodation, meals and incidentals costs will require the prior approval of the Director.
- H.7.2. An employee who is required to be absent from their usual place of work on official business for a period longer than 10 hours but is not absent overnight will be paid a taxable Part Day Travel Allowance. This rate is determined by the Australian Taxation Office.
- H.7.3. Employees are entitled to economy class where required to travel on official business within Australia. Employees travelling overseas on official business are entitled to premium economy and shall be entitled to a rest day on arrival and return. Any additional requirements relating to overseas class upgrades or other special consideration resulting in additional costs will require prior approval of the Director.
- H.7.4. Further information and details of current arrangements for meeting the expenses of employees who are required to travel on official duty can be found in the NGA's Travel Policy.

## **H.8 LOSS, DAMAGE AND INDEMNITY**

- H.8.1. The Director may approve reimbursement to an employee for loss or damage to clothing or personal effects that occurred in the course of the employee's work.

## **H.9 RELOCATION ASSISTANCE**

- H.9.1. The NGA may meet the reasonable costs for transport, removal and temporary accommodation for employees who relocate from a different geographical location on appointment to the NGA. More information can be found in the Recruitment and Selection Guidelines.

### **Apprentice Rates**

H.9.2. The weekly rate of wage for an apprentice shall be the undermentioned percentages of the ordinary weekly wage prescribed below for NGA Level 2:

1st year	42%
2nd year	55%
3rd year	75%
4th year	88%.

## APPENDIX 1 - SALARY RATES

Column 1	Column 2	Column 3	Column 4	Column 5
Classification	Pay Point	Salary increase with effect from the first pay on or after commencement of the agreement	Salary increase with effect from the first pay on or after 12 months following commencement of the agreement	Salary increase with effect from the first pay on or after 18 months following commencement of the agreement
NGA Level 1	L1.1	\$44,524	\$45,414	\$45,868
	L1.2	\$45,657	\$46,570	\$47,036
	L.1.3	\$49,019	\$49,999	\$50,499
NGA Level 2	L2.1	\$50,034	\$51,035	\$51,545
	L2.2	\$52,419	\$53,467	\$54,002
	L2.3	\$55,596	\$56,708	\$57,275
NGA Level 3	L3.1	\$56,676	\$57,810	\$58,388
	L3.2	\$58,107	\$59,269	\$59,862
	L.3.3	\$61,643	\$62,876	\$63,505
NGA Level 4	L4.1	\$63,557	\$64,828	\$65,476
	L4.2	\$65,146	\$66,449	\$67,113
	L4.3	\$69,087	\$70,469	\$71,174
NGA Level 5	L5.1	\$70,144	\$71,547	\$72,262
	L5.2	\$71,481	\$72,911	\$73,640
	L5.3	\$75,256	\$76,761	\$77,529
NGA Level 6	L6.1	\$77,812	\$79,368	\$80,162
	L6.2	\$83,115	\$84,777	\$85,625
	L6.3	\$87,175	\$88,919	\$89,808
	L6.4	\$89,942	\$91,741	\$92,658
Executive Level 1	EL1.1	\$98,157	\$100,120	\$101,121
	EL1.2	\$101,718	\$103,752	\$104,790
	EL1.3	\$112,003	\$114,243	\$115,385
Executive Level 2	EL2.1	\$114,383	\$116,671	\$117,838
	EL2.2	\$123,012	\$125,472	\$126,727
	EL2.3	\$130,725	\$133,340	\$134,673

## APPENDIX 2 – ADDITIONAL SALARY RATES

The following additional Executive Level pay points may be available at the discretion of the Director.

Column 1	Column 2	Column 3	Column 4	Column 5
Classification	Pay Point	Salary increase with effect from the first pay on or after commencement of the agreement	Salary increase with effect from the first pay on or after 12 months following commencement of the agreement	Salary increase with effect from the first pay on or after 18 months following commencement of the agreement
Executive Level 1	EL1.4	\$117,619	\$119,971	\$121,171
Executive Level 2	EL2.4	\$132,924	\$135,582	\$136,938



## APPENDIX 3 – ALLOWANCES

### TRADES RELATED ALLOWANCES

Description	Rate on commencement	12 Months after commencement	18 months after commencement
Electrical Trade Allowance (formerly paid as Licence and Swinging Scaffold Allowances) – payable to qualified electrical staff only.	\$100.69/fn	\$102.70/fn	\$103.73/fn
Epoxy Based (working in close proximity to person/s using epoxy based materials and all materials which include or require the addition of a catalyst hardener and reactive additives or two-pack catalyst system).	\$0.75/hr	\$0.77/hr	\$0.78/hr
Epoxy Based (using epoxy based materials and all materials which include or require the addition of a catalyst hardener and reactive additives or two-pack catalyst system).	\$0.89/hr	\$0.91/hr	\$0.92/hr
Welding – MIG	\$1.22/hr	\$1.24/hr	\$1.25/hr
Welding – other than AL	\$0.89/hr	\$0.91/hr	\$0.92/hr
Welding – Plasma arc	\$1.22/hr	\$1.24/hr	\$1.25/hr
Welding – TIG	\$0.88/hr	\$0.90/hr	\$0.91/hr

## APPENDIX 4 – SUPPORTED WAGE SYSTEM

Excerpt from the Australian Government Industry Award – Schedule Q

[Varied by PR592689]

**Q.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.

**Q.2** In this schedule:

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

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

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

**relevant minimum wage** means the minimum wage prescribed in this 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 following 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.

### Q.3 Eligibility criteria

Q.3.1 Employees covered by this schedule will be those who are unable to perform the range of duties to the competence level required within the class of work for which the employee is engaged under this 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.

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

#### **Q.4 Supported wage rates**

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

Assessed capacity (clause <b>Error! Reference source not found.</b> ) %	Relevant minimum wage %
10	10
20	20
30	30
40	40
50	50
60	60
70	70
80	80
90	90

[Q.4.2 varied by PR592689 ppc 01Jul17]

Q.4.2 Provided that the minimum amount payable is not less than the minimum weekly amount as prescribed by the Fair Work Commission from time to time.

Q.4.3 Where an employee's assessed capacity is 10%, they must receive a high degree of assistance and support.

#### **Q.5 Assessment of capacity**

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

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

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

Q.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.

Q.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.

### **Q.7 Review of assessment**

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

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

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

### **Q.9 Workplace adjustment**

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

### **Q.10 Trial period**

Q.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 12 weeks, except that in some cases additional work adjustment time (not exceeding four weeks) may be needed.

Q.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.

[Q. 10.3 varied by PR592689 ppc 01Jul17]

Q.10.3 The minimum amount payable is not to be less than the minimum weekly amount as prescribed by the Fair Work Commission from time to time.

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

Q.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 Q.5.

## APPENDIX 5 – DEFINITIONS AND INTERPRETATIONS

For the purposes of this Agreement, the following definitions apply:

Agreement	The National Gallery of Australia Enterprise Agreement 2018-2021
APS	Australian Public Service
Bandwidth	The span of hours during which employees may work their ordinary hours of duty is 7.00am to 7.00pm, Monday to Friday
Casual	An employee who is employed to work irregular or intermittent hours when requested to do so
Classification	The work level of the duties being performed in line with the NGA Work Level Standards
Delegate	An employee authorised to be a Delegate of the Director to undertake or approve a specified function
Dependant	In relation to an employee, means: (a ) An employee’s spouse; (b) An employee’s partner; (c) A child, under 16 years of age (including adopted or foster children) or parent of the employee, or of the spouse or partner of the employee, being a person who ordinarily resides with the employee, and who is wholly or substantially dependent upon the employee  For Personal Leave purposes, refer to the definition of Family Member / Immediate Family Member
Director	The Director of the NGA
Employee	A person employed by the NGA under and within the meaning of the <i>National Gallery Act 1975</i> and who is covered by this Agreement
Excess Employee	Excess employee means: (a) an employee who is included in a class of employees employed in the NGA, which comprises a greater number of employees than is necessary for the efficient and economical working of the NGA; or (b) an employee whose services of the employee cannot be effectively used because of technological or other changes in the work methods of the NGA, or changes in the nature, extent or organisation of the functions of the NGA; or (c) where the duties usually performed by the employee are to be performed in a different locality, the employee is not willing to perform the duties at the locality, and the Director has determined that these provisions will apply to that employee
Fair Work Act	Fair Work Act 2009

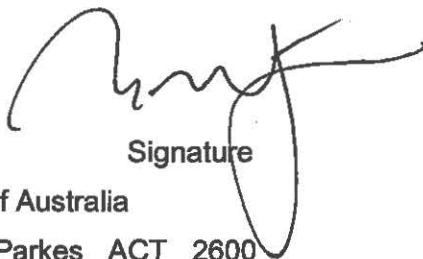
FWC	Fair Work Commission
Family Member	For the purposes of personal leave, "immediate family member" means a person who is: (a) a spouse (including a former spouse); (b) a de facto partner (including a current or former same sex partner); (c) in the following relationships either with the employee or the employee's spouse or de facto partner: (i) child; (ii) parent. (iii) grandparent; (iv) grandchild or sibling
Foster child	A fostered 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 the fostering) a child of the employees spouse or de facto partner
NGA	National Gallery of Australia
NGACC	Means the NGA Consultative Committee which is a committee of representatives of employees covered by this Agreement and NGA management representatives appointed by the Director
Gazette	APS Jobs
Household Member	A person who normally lives at the employee's residence
HSR	Health and Safety Representative
Manager	Employee with management responsibilities for a function or work area
Merit selection	A staff selection process based on assessing and ranking potential employee's skills, experience and suitability for a position and selecting the best candidate
NES	National Employment Standards
Non-ongoing	In relation to an employee means a person who is recruited to or employed in the NGA on a specified term or specified task basis
WH&S	Work Health and Safety
Ongoing	In relation to an employee means a person who is recruited to or employed in the NGA on a permanent basis
Partner	In relation to an employee, means a person who stands in a bona fide domestic relationship, without discrimination as to sexual orientation, with the employee, and has done so for a period of twelve months or more
Potentially excess employee	An employee who is likely to become an excess employee

Salary	The employee's rate of salary/pay (in accordance with the Salary Rates at Appendix 1), is considered to be salary for all purposes. Where any employee takes up the option of salary packaging on a salary sacrifice basis under the NGA's Salary Packaging Scheme, the employee's pre-sacrifice salary will be the salary for all purposes
SBE	Screen Based Equipment
Settlement Period	NGA employees covered by flexible working arrangements may adjust how they work their total ordinary hours over a "4 week settlement period" (i.e. 150 hours), commencing on a Thursday payday and finishing on a Wednesday
Supervisor	An employee who has responsibility for overseeing, monitoring, managing or supervising the work of another employee

**APPENDIX 6 - Formal acceptance of this agreement and signatories (in accordance with regulation 2.06A of the Fair Work Regulations 2009)**

**EMPLOYER**

Nick Mitzevich  
Director, National Gallery of Australia  
Address: Parkes Place, Parkes ACT 2600



Signature

Date 12/7/18

**EMPLOYEE REPRESENTATIVES**

Beth Vincent-Pietsch  
Deputy Secretary  
Community and Public Sector Union  
Address: Level 1, 40 Brisbane Avenue, Barton ACT 2601

Signature

Date

Jason O'Mara  
ACT Branch Secretary  
Construction, Forestry, Mining, Energy Union  
Address: 3 Rosevear Place, Dickson ACT 2602

Signature

Date

Beata Tworek-Matuszkiewicz  
Bargaining Representative, National Gallery of Australia  
Address: Parkes Place, Parkes ACT 2600

Signature

Date



**APPENDIX 6 - Formal acceptance of this agreement and signatories (in accordance with regulation 2.06A of the Fair Work Regulations 2009)**

**EMPLOYER**

Nick Mitzevich	Signature	Date
Director, National Gallery of Australia		
Address: Parkes Place, Parkes ACT 2600		

**EMPLOYEE REPRESENTATIVES**



Beth Vincent-Pietsch	Signature	Date: 13 <sup>th</sup> July, 2018
Deputy Secretary		
Community and Public Sector Union		
Address: Level 1, 40 Brisbane Avenue, Barton ACT 2601		

Jason O'Mara	Signature	Date
ACT Branch Secretary		
Construction, Forestry, Mining, Energy Union		
Address: 3 Rosevear Place, Dickson ACT 2602		

Beata Tworek-Matuszkiewicz	Signature	Date
Bargaining Representative, National Gallery of Australia		
Address: Parkes Place, Parkes ACT 2600		

**APPENDIX 6 - Formal acceptance of this agreement and signatories**

**EMPLOYER**

Full Name of Authorised Person	Signature	Date
Director, National Gallery of Australia		

**BARGAINING REPRESENTATIVES**

Full Name of Authorised Person	Signature	Date
Community and Public Sector Union		

<i>ZACHARY ALAN SMITH</i> <i>BRANCH ASSISTANT SECRETARY</i>		<i>13/7/2018.</i>
Full Name of Authorised Person	Signature	Date
Construction, Forestry, Mining, Energy Union		

Full Name of Authorised Person	Signature	Date
Bargaining Representative, National Gallery of Australia		

**IN THE FAIR WORK COMMISSION**

**FWC Matter No.:**  
**AG2018/3268**

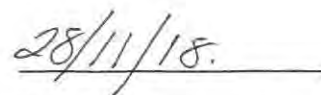
Section 185 – Application for approval of a single enterprise agreement

**Undertakings- Section 190**

I Nicholas Meatheringham, Chief Operating Officer for the National Gallery of Australia (the NGA), give the following undertakings with respect to the National Gallery of Australia Enterprise Agreement 2018-2021 (“the Agreement”):

1. I have the authority given to me by the NGA to provide these undertakings in relation to the application before the Fair Work Commission.
2. For the purposes of the NES, and the payment of shift penalty payments as prescribed by Clause H.5 of the Agreement, shift workers and their hours will be as defined or described at clause 18.2 of the Australian Government Industry Award 2016, that is, employees who are regularly rostered to perform ordinary hours of work outside the hours of 6.30am-6.00pm Monday to Friday and/or on Saturday, Sunday and public holidays, or shift patterns as otherwise agreed pursuant to Clause H.5.4 of the Agreement.
3. Employees who may work continuous night shifts will be entitled to a shift penalty payment of 130% consistent with the Australian Government Industry Award 2016.
4. Apprentices in their first two years will receive either the relevant Rates of Pay at clause H.9.2 of the Agreement or for the equivalent position’s rate of pay as provided for in clause 12.5 of the Australian Government Industry Award 2016, whichever is greater.
5. The First Aid and Health and Safety Representative Allowances at clause H6.5 to which salary increases as provided for by the Agreement will be applied is \$24.91.
6. Casual employees who work shift work will receive the appropriate shift penalty payment as prescribed at Clause H.5 of the Agreement in addition to the casual loading at Clause B.1.2.
7. Employees who are required to work overtime in accordance with Clause H.4. of the Agreement will be entitled to receive a meal allowance consistent with the provisions of Clause 13.6 the Australian Government Industry Award 2016.
8. These undertakings are provided on the basis of the issues raised by the Fair Work Commission in the application before it.

  
Signature

  
Date



# DECISION

*Fair Work Act 2009*  
s.185—Enterprise agreement

**National Gallery of Australia**  
(AG2018/3268)

## **NATIONAL GALLERY OF AUSTRALIA ENTERPRISE AGREEMENT 2018 - 2021**

Commonwealth employment

DEPUTY PRESIDENT KOVACIC

CANBERRA, 13 DECEMBER 2018

*Application for approval of the National Gallery of Australia Enterprise Agreement 2018-2021.*

[1] An application has been made for approval of an enterprise agreement known as the *National Gallery of Australia Enterprise Agreement 2018 - 2021* (the Agreement). The application was made pursuant to s.185 of the *Fair Work Act 2009* (the Act). It has been made by National Gallery of Australia. The Agreement is a single enterprise agreement.

[2] Subject to concerns that have been addressed by way of undertakings, I am satisfied that each of the requirements of ss.186, 187 and 188 of the Act as are relevant to this application for approval have been met.

[3] As noted, pursuant to s.190(3), I have accepted undertakings from the employer. In accordance with s.191(1) of the Act the undertakings are taken to be a term of the Agreement. A copy of the undertakings are attached to this decision.

[4] The Community and Public Sector Union and the Construction, Forestry, Maritime, Mining and Energy Union, being bargaining representatives for the Agreement, have given notice under s.183 of the Act that they want the Agreement to cover them. In accordance with s.201(2) I note that the Agreement covers the organisations.

[5] The Agreement is approved and, in accordance with s.54 of the Act, will operate from 20 December 2018. The nominal expiry date of the Agreement is 20 December 2021.



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