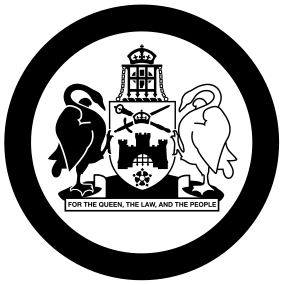

ACT
Government

ACT PUBLIC SECTOR NURSING AND MIDWIFERY ENTERPRISE AGREEMENT 2023-2026

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Section A Scope of Agreement

1. TITLE

1.1 This Agreement made under section 172 of the Fair Work Act 2009 (Cth) (FW Act), will be known as the ACT Public Sector Nursing and Midwifery Enterprise Agreement 2023-2026.

2. MAIN PURPOSE

2.1 The main purpose of this Agreement is to provide for common terms and conditions that apply across the ACT Public Sector (ACTPS) and terms and conditions that reflect the operational and business requirements of the particular Business Units and of nursing and midwifery employees.

Retaining our people

2.2 In order to promote permanent employment and job security for employees, the ACTPS will endeavour to minimise the use of temporary and casual employment.

2.3 The ACTPS agrees to the use of temporary employees only where there is no officer available with the expertise, skills or qualifications required for the duties to be performed or assistance of a temporary nature is required for the performance of urgent or specialised work within a particular business unit of the ACTPS and it is not practical in the circumstances to use the services of an existing officer.

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

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

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

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

2.7 These strategies and initiatives may include:

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

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

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

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

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

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

Attracting future employees

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

Developing our people

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

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

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

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

Recognising our people

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

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

Ensuring fairness

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

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

Achieving a better work and life balance

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

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

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

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

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

Promoting a healthy and safe working environment

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

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

2.24 The ACTPS will take all reasonable steps and precautions to provide a healthy, safe and secure workplace for the employee. The ACTPS and all employees will act in a manner that is consistent with the WHS Act.

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

2.25.1 organisational/environmental policies and programs;

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

2.25.3 traditional and non-traditional physical activity programs.

Climate change mitigation and sustainability

2.26 The parties acknowledge all of the following:

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

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

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

3. APPLICATION OF THE AGREEMENT AND COVERAGE

3.1 This Agreement applies to and covers:

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

3.1.2 at any time when the Agreement is in operation all persons engaged under the PSM Act in one of the Classifications in Schedule 1, except a person who is engaged as Head of Service under section 31(1) of the PSM Act, persons engaged as directors-general under section 31(2) of the PSM Act or persons engaged as executives under section 31(2) of the PSM Act.

3.1.3 ACT Territory Authorities and instrumentalities that engage persons under the PSM Act in classifications listed in Schedule 1 of this Agreement.

3.1.4 the Australian Nursing and Midwifery Federation (ANMF) subject to the Fair Work Commission (FWC) noting in its decision to approve this Agreement that it covers the ANMF; and

3.1.5 the Health Services Union of Australia (HSU), subject to the FWC noting in its decision to approve this Agreement that it covers the HSU.

4. COMMENCEMENT AND DURATION

4.1 This Agreement will commence operation seven days after its approval by the Fair Work Commission (FWC).

4.2 The nominal expiry date of this Agreement is 31 March 2026.

4.3 The head of service and unions covered by this Agreement agree to commence bargaining for a new replacement Agreement no later than 6 (six) months prior to the nominal expiry date of this Agreement.

5. OPERATION OF THE AGREEMENT

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

5.2 Applicable legislation includes all of the following:

5.2.1 *Fair Work Act 2009* (Cth) (FW Act)

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

5.2.3 *Public Sector Management Standards 2016* (ACT) (PSM Standards)

5.2.4 *Financial Management Act 1996* (ACT) (FM Act)

5.2.5 *Work Health and Safety Act 2011* (ACT) (WHS Act)

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

5.2.7 *Holidays Act 1958* (ACT) Holidays Act

5.2.8 *Safety Rehabilitation and Compensation Act 1988* (Cth) (SRC Act)

5.2.9 *Superannuation Guarantee (Administration) Act 1992* (Cth) (SG Act)

5.2.10 *Integrity Commission Act 2018* (ACT) (IC Act)

5.2.11 *Public Interest Disclosure Act 2012* (ACT) (PID Act)

5.2.12 *Labour Hire Licensing Act* (ACT) 2020 (LHL Act)

5.2.13 *Health Infrastructure Enabling Act 2023*

5.3 This Agreement constitutes a closed agreement in settlement of all claims for its duration. Therefore, during the life of this Agreement, there will be no further claims affecting the provisions of this Agreement, except where these claims are consistent with the terms of this Agreement. This subclause does not limit the rights to vary an agreement under the Fair Work Act (2009).

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

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

6. AGREEMENT AVAILABILITY

6.1 Copies of this Agreement will be made available, in paper or electronic form, to employees covered by this Agreement.

7. AUTHORITY OF THE HEAD OF SERVICE

7.1 The Head of Service may, in writing, delegate any power or function that the Head of Service has under this Agreement to another person or position within the ACTPS, subject to directions, except for this power of delegation and the powers under:

7.1.1 3.1.1

7.1.2 3.1.2

7.1.3 4.3

7.1.4 47.3 Section G48.3

7.1.5 47.4

7.1.6 105.4.3

7.1.7 164.14

7.1.8 164.16

7.1.9 164.17

7.1.10 164.18

7.1.11 166.2

7.1.12 173.1

7.1.13 189

7.1.14 Schedule 2

7.1.15 Schedule 12, section 16 (Campaigning for Election)

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

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

8. PUBLIC SECTOR EMPLOYERS

8.1 Certain statutory office-holders and chief executive officers are defined by Section 152 of the PSM Act to be a Public Sector Employer where a territory law states that:

8.1.1 they may employ staff; and

8.1.2 the staff must be employed under the PSM Act.

8.2 Where a statutory office-holder or chief executive officer is a Public Sector Employer then a reference to the head of service in this Agreement will be taken to mean the Public Sector Employer such that the Public Sector Employer may exercise any power or function that the head of service has under this Agreement, except for the powers under sub-clause 166.2 and 173.1.

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

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

8.5 In this Agreement, reference to the head of service may be taken to mean delegate of the Public Sector Employer where the Public Sector Employer had delegated the particular power or function under subclause 8.3.

9. AUTHORITY OF THE PUBLIC SECTOR STANDARDS COMMISSIONER

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

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

9.3 Where the Public Sector Standards Commissioner is conducting investigations by reference to section 144(1)(a)(i) of the PSM Act about a matter declared by the Chief Minister in the way prescribed, the Public Sector Standards Commissioner is not limited to or bound by the investigation procedures contained in clauses 140 and 141 of this Agreement.

10. TERMINATION OF AGREEMENT

10.1 The ACTPS and the unions covered by the Agreement agree that the maintenance of, and adherence to, agreed terms and conditions of employment is a key component of good workplace relations and a dispute free workplace. They therefore agree that they will not exercise their right to terminate this Agreement under the FW Act.

Section B Rates of Pay and Pay Related Matters

11. PAY INCREASES

11.1 Employees will be paid in accordance with the employee's classification and rates of pay set out in Schedule 1 to this Agreement.

11.2 Increases to pay rates for all classifications set out in Schedule 1 of this Agreement will be:

11.2.1 $1,750 flat rate increase in the first full pay period on or after 1 January 2023.

11.2.2 1% from the commencement of the first full pay period on or after 1 June 2023.

11.2.3 $1,750 flat rate increase in the first full pay period on or after 1 December 2023.

11.2.4 1.5% from the commencement of the first full pay period on or after 1 June 2024.

11.2.5 1% from the commencement of the first full pay period on or after 1 December 2024 and $1,500 flat rate increase.

11.2.6 1% from the commencement of the first full pay period on or after 1 June 2025.

11.2.7 1% from the commencement of the first full pay period on or after 1 December 2025 and $1,000 flat rate increase.

12. METHOD OF PAYMENT

12.1 Employees will be paid fortnightly and by electronic funds transfer into a financial institution account of the employee's choice.

12.2 The ACTPS commits to paying employees the employees' ordinary fortnightly pay and allowances on the appropriate payday. The ACTPS also commits to paying any shift penalties, overtime payments and higher duties allowance within two pay periods of the appropriate authorisation having been received by the relevant corporate area.

12.3 Ordinary fortnightly pay will be based on the following formula:

12.3.1 Fortnightly pay = annual rate of pay x 12 / 313.

12.4 A part-time employee will be paid pro-rata based on the employee's agreed working hours.

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

12.6 Once an employee has submitted the appropriate documentation, payment for overtime worked, penalty rates incurred and other non-salary items may be paid not later than the payday of the following fortnight.

Record Keeping

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

12.8 The employee will record the time of commencing and ceasing duty for each instance of attendance. These records will be provided to the supervisor/manager where the supervisor/manager so requests.

13. PAYROLL DEDUCTION FOR UNION FEES

13.1 Upon request by the union, the ACTPS will facilitate arrangements for payroll deductions for union fees. The ACTPS agrees that it will not impose any limitations or impediments to an employee utilising payroll deductions for union fees that do not apply to other regular payroll deductions.

14. ATTRACTION AND RETENTION INCENTIVES

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

14.2 The framework under which attraction and retention arrangements may apply during the life of this Agreement is set out in Schedule 2 of this Agreement.

15. OVERPAYMENTS

15.1 An overpayment is a debt owed to the Territory.

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

15.3 Any disputes about the application of these provisions should be addressed through the Dispute Avoidance/Settlement Procedures outlined at Section R152. Unless the employee agrees, recovery of monies will not occur while a dispute is in process.

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

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

15.5.1 Financial hardship.

15.5.2 The circumstances under which the debt arose.

15.5.3 Other exceptional circumstances.

15.6 If the head of service considers that a waiver in accordance with subclause 15.4 is not appropriate in the circumstances, the head of service must provide the employee with all the following information:

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

15.6.2 The nature of the overpayment.

15.6.3 The reasons why the overpayment occurred.

15.6.4 The gross and net components of the overpayment.

15.7 The head of service will provide the employee or their representative with an opportunity to respond or request a waiver within 10 working days from the date the information at 15.6 was provided. If the head of service does not receive a response within this timeframe, the overpayment process will continue in accordance with the following provisions in this clause.

15.8 Subsequent to the decision of whether to waive the overpayment in accordance with subclause 15.7 the head of service must advise the employee in writing, as soon as practicable, of all the following:

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

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

15.8.3 The proposed recovery rate, if any.

15.9 The head of service and the employee must make genuine efforts to agree on a reasonable recovery rate having regard for all of the circumstances prior to any recovery being made. Where agreement cannot be reached subclause 15.12 applies.

15.10 Any such agreement in accordance with subclause 15.9 may include recovery of the overpayment by the head of service using one of the following methods:

15.10.1 A lump sum payment by the employee.

15.10.2 A payroll deduction from the employee's pay.

15.11 In respect to recovery action it may be agreed with the employee to adjust their leave credits instead of, or in combination with, a cash recovery under subclause 15.10, subject to the cashing out of leave limitation provisions in this Agreement.

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

15.12.1 Where recovery occurs in accordance with subclause 15.12 the overpayment will be recovered at the rate of up to 10% of the employee's gross fortnightly pay, or such other rate determined by the head of service having regard for all of the circumstances.

15.13 Despite subclause 15.9 and subclause 15.12, the recovery period will not usually exceed 26 pay periods.

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

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

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

16. UNDERPAYMENTS

16.1 Where the head of service agrees that an employee has been underpaid on the employee's base rate of pay, and the employee requests, an offline payment for the amount owing will be made to the employee within 3 (three) business days of the head of service receiving the request.

16.2 Where a shift penalty, overtime payment or Higher Duties Allowance is not made within 2 pay periods of the appropriate authorisation having been received by the relevant corporate area, and the employee requests, an offline payment for the amount owing will be made to the employee within 3 (three) business days of the head of service receiving the request.

17. PAY POINTS AND INCREMENTS

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

17.2 Despite subclause 17.1, the head of service may approve a person who is engaged by the ACTPS, or an employee who is promoted or approved to receive higher duties allowance, to be paid at a higher pay point within that classification level.

17.3 An eligible employee is entitled (subject to there being no underperformance or Discipline action undertaken in accordance with Section P – Workplace Values and Behaviours, or Section Q - Underperformance) to be paid an annual increment on and from the relevant anniversary of the date of commencement in the classification for the employee concerned.

17.4 Increments apply to both an employee's permanent and higher duties classification. When an employee has completed 12 (twelve) months higher duties within a 24 (twenty-four) month period an increment will be paid and all further instances of higher duties will be paid at this level.

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

Accelerated Advancement

17.6 Accelerated incremental advancement may occur as follows:

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

17.6.2 The head of service may approve the payment of additional accelerated increments to the employee:

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

17.6.2.2 at any other time between periods of annual incremental advancement.

subject to a maximum of 2 (two) additional increments within the classification range being awarded to the employee in a 12-month period (excluding any additional increments awarded to the employee on commencement in the position in accordance with paragraph 17.2.

17.7 Where an employee is awarded additional accelerated increments over the 12-month period between the payments of annual increments, the employee is still eligible for the payment of an annual increment, and the date of effect of the annual increment will remain unchanged.

17.8 In considering whether to approve payment at a higher pay point as per paragraph 17.2, or accelerated advancement as per paragraph 17.6, the head of service will take into account all of the following factors:

17.8.1 The employee's qualifications.

17.8.2 The employee's relevant work and personal experience.

17.8.3 The employee's current pay.

17.8.4 The employee's ability to make an immediate contribution.

17.8.5 Difficulties in attracting and retaining suitable employees.

Casual Employees

17.9 Subject to the completion of the relevant incremental assessment, a casual employee will be granted incremental advancement in accordance with this clause provided that:

17.10 Where the aggregate of employment over the respective 12 (twelve) month service period is equivalent to 20 (twenty) hours or more per week the employee shall be entitled to annual increments at the incremental hourly rate prescribed for the employee's classification.

17.11 Where the aggregate of employment over each respective 12 (twelve) months service period is less than the equivalent of 20 (twenty) hours per week the employee shall be entitled to incremental advancement on completion of 24 (twenty-four) months service at the incremental hourly rate prescribed for the employee's classification.

18. CLASSIFICATION/WORK VALUE REVIEW

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

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

18.3 If the head of service determines that the case presented under subclause 18.1 is frivolous or vexatious, the head of service will refuse to undertake the review.

18.4 If the head of service determines that the case presented under subclause 18.1 does not contain enough information for the head of service to make an assessment on whether the review is warranted, the head of service will provide the applicant an opportunity to make further submissions. If, following such further submissions, or if no such submissions are made, the head of service still does not have enough information to make an assessment on whether or not the review is warranted, the head of service may refuse to undertake the review.

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

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

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

19. SUPERANNUATION

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

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

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

19.4 An employee may choose any approved superannuation fund as long as the fund can accept employer contributions by EFT. If the employee's chosen fund cannot or will not accept additional contributions as outlined in subclause 19.5 and 19.8, then the employee will be advised of their right to change funds, to enable such contributions to be made.

19.5 The employer contributions are all of the following:

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

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

19.5.3 From 1 January 2026 is 12.5%.

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

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

19.7 Employer contributions will not be reduced by any other contributions made through salary sacrifice arrangements.

19.8 For employees who take paid or unpaid parental leave (which includes birth, parental, grandparental and foster care leave), employer contributions (which are calculated using the same formula as prescribed in subclause 111.22) are made for an aggregate period equal to a maximum of 104 weeks of the parental leave (which includes birth, parental, grandparental

and foster care leave), in accordance with the rules of the appropriate superannuation scheme. For clarification, the 104-week period includes separate shorter periods aggregating to 104 weeks, and does not need to be one continuous period.

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

20. SALARY SACRIFICE ARRANGEMENTS

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

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

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

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

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

21. PAYMENT ON DEATH

21.1 Where an employee dies, or the head of service has directed that an employee will be presumed to have died on a particular date, the head of service may make a payment or partial payment for unused leave credits and other entitlements directly to the dependants or the domestic partner, or to the legal personal representative, or to the estate, of the former employee of an amount that would have been paid had the employee ceased employment otherwise than because of the employee's death. The payment in respect of unused LSL will be calculated in accordance with subclause 122.23.

Section C Nursing and Midwifery Classifications and Career Pathways Enhancement

22. PREAMBLE

22.1 The nursing and midwifery classification level and pay increments structure is reflected in the rates of pay in Schedule 1 - Nursing and Midwifery Classifications and Rates of Pay.

22.2 The nursing and midwifery work level standards (WLS) sets out the responsibilities and duties for each of the classification levels in Schedule 1.

22.3 The nursing and midwifery WLS define the professional classifications for nursing and midwifery roles in the ACTPS:

22.3.1 Undergraduate Student of Nursing (USN)

22.3.2 Assistant in nursing (AIN)

22.3.3 Enrolled Nurse (EN) Level 1

22.3.4 Enrolled Nurse (EN) Level 2

22.3.5 Registered Nurse (RN) Level 1

22.3.6 Registered Nurse (RN) Level 2

22.3.7 Registered Nurse (RN) Level 3, Grades 1 and 2

22.3.8 Registered Nurse (RN) Level 4, Grades 1-3

22.3.9 Registered Nurse (RN) Level 5, Grades 1-6

22.3.10 Nurse Practitioner (NP)

22.3.11 Undergraduate Student of Midwifery (USM)

22.3.12 Midwife (RM) Level 1

22.3.13 Midwife (RM) Level 2

22.3.14 Midwife (RM) Level 3, Grades 1 and 2

22.3.15 Midwife (RM) Level 4, Grades 1-3

22.3.16 Midwife (RM) Level 5, Grades 1-6

22.4 Work level standards for all above-base classifications will be reviewed during the life of this agreement to ensure that they accurately reflect expectations and working arrangements.

22.5 When establishing a nursing or midwifery position, it will be graded in accordance with the WLS.

22.6 All positions for promotion will be filled in accordance with the PSM Act merit selection process.

23. ADVANCEMENT FROM BASE GRADE

23.1 Advancement from the base grade to level 2 in the Enrolled Nurse, Registered Nurse or Midwife classifications will be in accordance with the merit selection process for either:

23.1.1 promotion to an established position when a position becomes vacant; or

23.1.2 Personal Classification.

23.2 Advancement for permanent officers to a personal classification will be in accordance with the merit selection process agreed by the parties as set out in Schedule 5 of this Agreement. The selection process will be conducted quarterly.

24. MOBILITY OF NURSES OR MIDWIVES AT REGISTERED NURSE/REGISTERED MIDWIFE LEVEL 2

24.1 A RN/RM Level 2 may revert to RN/RM Level 1 at any time upon request to the head of service. A RN/RM Level 1 may reapply for advancement to RN/RM Level 2 at any subsequent assessment.

24.2 A RN/RM Level 2 may from time to time seek transfer to another work area, and retain their Level 2 status, subject to the following:

24.2.1 the request should be discussed by the employee with the manager and CNC (or equivalent) of the losing and gaining work areas;

24.2.2 the employee must lodge an application according to the agreed selection process to assess the employee's suitability to work at Level 2 in the new work area;

24.2.3 where a transfer to a vacant position in the new work area is immediately available, the employee may transfer there as a RN/RM Level 1, pending the outcome of the assessment process;

24.2.4 if the employee's application is successful, then the employee will be back paid as Level 2 to the date of first transfer to the new work area;

24.2.5 if the employee's application is not successful on the first occasion, then the employee may reapply for assessment at a later time, but in that case, there will be no back pay in the event that the employee is successful.

25. REGISTERED NURSES/REGISTERED MIDWIVES LEVEL 2 POSITIONS - VACANCIES

25.1 Positions classified at RN/RM Level 2 as already established will be maintained.

25.2 A minimum of 25% of the nursing/midwifery workforce in each clinical unit will be classified at level 2 with additional positions according to organisational need.

26. REGISTERED NURSES /REGISTERED MIDWIVES, LEVEL 3

26.1 Composite Roles as a RN/RM Level 3 Grade 2 may be appointed across streams only in circumstances where the size and complexity and nature of the nursing service requires performance of a combination of the responsibilities.

Section D Allowances

27. OPERATION OF ALLOWANCES

27.1 The rates for all allowances provided for in Schedule 11 of this Agreement will be adjusted by:

27.1.1 1.79% from the commencement of the first full pay period on or after 1 January 2023.

27.1.2 1% from the commencement of the first full pay period on or after 1 June 2023.

27.1.3 1.74% from the commencement of the first full pay period on or after 1 December 2023.

27.1.4 1.5% from the commencement of the first full pay period on or after 1 June 2024.

27.1.5 2.44% from the commencement of the first full pay period on or after 1 December 2024.

27.1.6 1% from the commencement of the first full pay period on or after 1 June 2025.

27.1.7 1.93% from the commencement of the first full pay period on or after 1 December 2025.

unless the contrary intention is stated for a specific allowance in Schedule 11.

27.2 Despite clause 27.1 part-time and casual employees who satisfy the requirements for payment of an expense-related allowance will receive the full amount of allowance or payment prescribed in Schedule 11.

27.2.1 Part-time and casual employees who satisfy the requirements for payment of an allowance that is not an expense-related allowance will receive the following amount of the allowance or payment prescribed in Schedule 11 unless the contrary intention is stated for a specific allowance in Schedule 11:

27.1.1.1 If the allowance is payable by the hour, shift or occasion - the full amount.

27.1.1.2 If the allowance is payable by the day, week, fortnight or year - a prorated amount calculated according to the hours worked relative to full-time hours.

27.3 Allowances payable to casual employees under this Agreement are not subject to the loading prescribed in subclause 46.2.

27.4 Where an employee is in receipt of a shift penalty, any disability allowance the employee receives in accordance with Schedule 11, will not be included for the purpose of calculating the shift penalty.

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

Note, this includes the 'cash out' of leave credits where available under this Agreement, and the payment of leave credits on separation from the ACTPS.

27.6 In circumstances where an employee is directed, or requested and agrees, to perform the work of a classification that is different to their substantive classification and that other work attracts

allowances which are not applicable to the employee's substantive classification, the head of service may, at their discretion, authorise payment to the employee of an allowance from the other classification that relates to the performance of that other work.

27.7 For the sake of clarity, subclause 27.6 does not give rise to an employee having an entitlement to the payment of such other allowance. Rather, the purpose of subclause 27.6 is to provide a mechanism for the payment of an allowance in extenuating circumstances where the head of service considers it is warranted.

28. QUALIFICATION ALLOWANCE FOR FURTHER EDUCATION QUALIFICATIONS

28.1 When an application is made by an eligible employee the Qualification Allowance will be paid to:

28.1.1 Enrolled Nurses who hold further qualifications, for example a completed Diploma of Nursing to gain registration, and then an Advanced Diploma in Mental Health; and

28.1.2 Registered Nurses/Registered Midwives who hold post-graduate qualifications under the Australian Qualifications Framework, or recognised equivalent, for example a completed Bachelor in Nursing to gain registration, and then a Post-Graduate Certificate or Diploma in Emergency Nursing.

28.2 It is agreed that, for the duration of this Agreement, qualification allowance will be paid to all eligible employees at the rate of that equal to a full-time equivalent employee. The operation and application of this clause will be reviewed during the life of the agreement.

28.3 For the purposes of this clause, a qualification allowance is only paid when the qualification is in addition to the mandatory qualification required for registration either as a nurse or midwife, or for authorisation as a Nurse Practitioner. For example, a nurse or midwife who holds an undergraduate degree in a non-nursing/midwifery field and a Masters in Nursing/Midwifery as the initial qualification to practice, would not be eligible for the allowance. This is because the Masters degree is required to register as a nurse/midwife and so is not in addition to the qualification leading to registration. Independently obtained undergraduate degrees in both nursing and midwifery would be eligible for the allowance subject to 28.7.

28.4 To receive the qualification allowance the employee must be able to:

28.4.1 provide documentary evidence to the head of service that they hold the qualification for which the allowance will be paid; and

28.4.2 where required by the head of service, provide further detailed evidence establishing the direct relevance of a particular course of study to the employee's current position and duties.

28.5 For the head of service to recognise a qualification for the purposes of this clause, it must be of a kind that, in the opinion of the head of service is directly relevant to the performance of the employee's current position and duties. This could include for example, a post-graduate qualification in Management for a nurse or midwife in a leadership role, or in Education for a nurse educator.

28.6 In cases of doubt, (i.e. inconsistency in the way Universities and other institutions describe the qualification), the Course Descriptions included in the Recognised Qualification Table below will be applied to determine the level of an employee's qualification.

28.7 Overseas qualification(s) and Non-University qualification(s) obtained from non-university training or education facilities will be referred to the Qualifications Committee.

28.8 Hospital-based midwifery certificates will be recognised at the postgraduate diploma level.

Review of a Decision

28.9 Where an employee is dissatisfied with a decision of the head of service to recognise the relevance of a qualification or to cease payment of the qualification allowance, the employee may lodge a request for review with the Qualifications Committee.

28.10 The convener of the Qualifications Committee will be the Chief Nursing and Midwifery Officer for ACT Health. This Committee will meet on a quarterly basis. When an outcome is determined, the applicant will be advised of the Committee's decision.

28.11 If a review is found in favour of the applicant, the applicant will receive a back payment of the Qualification Allowance to the date of the submission of their application.

Payment of the Qualification Allowance

28.12 Allowances are not cumulative. An employee who holds more than one qualification that satisfies eligibility for the allowance, is only entitled to one allowance and will be paid at the rate applicable to the highest relevant qualification the employee possesses.

28.13 The Qualification Allowance will be paid on a fortnightly basis according to the following table and as set out in Schedule 11 of this Agreement:

Table 1: Recognised Qualifications

Qualification	Course Description	Rate of Allowance
Enrolled Nurse		
	A course of study specified by the institution awarding the qualification to be a course of study of no less than six months duration, or no less than 120 hours.	**3.5%** of the salary paid at the minimum point of the salary scale of an Enrolled Nurse (EN) Level 1.
Registered Nurse/ Registered Midwife		
Honours Degree		**3.5%** of the salary paid at the minimum point of the salary scale of a RN/RM Level 1.
Conversion Degree	A conversion degree of not less than 12 months full-time study, or part-time equivalent.	**3.5%** of the salary paid at the minimum point of the salary scale of a RN/RM Level 1.
Postgraduate Certificate.	A course of study of no less than two subject units over no less than one full-time semester (or equivalent).	**3.5%** of the salary paid at the minimum point of the salary scale of a RN/RM Level 1.

Qualification	Course Description	Rate of Allowance
Postgraduate Diploma	A course of study of no less than three subject units (or equivalent) over no less than two full-time semesters (or equivalent). Note: midwives please refer to subclause 28.8.	**4.5%** of the salary paid at the minimum point of the salary scale of a RN/RM Level 1.
Second Degree	A course of study leading to the award of a second degree.	**4.5%** of the salary paid at the minimum point of the salary scale of a RN/RM Level 1.
Masters Degree	A course of study by research or course work or both of no less than six subject units (or equivalent) over no less than three full-time semesters (or equivalent).	**5.5%** of the salary paid at the minimum point of the salary scale of a RN/RM Level 1.
Doctoral Degree	A program of research and course work of no less than three years' duration (or equivalent).	**5.5%** of the salary paid at the minimum point of the salary scale of a RN/RM Level 1.

This allowance **shall not be included in salary** for the purposes of calculating overtime and shift penalty payments, or any other entitlement of the employee.

Payment of the allowance when moving to another field when at the employee's request or at the request of the head of service.

28.14 Payment of the allowance will not cease upon the employee requesting to take up duties elsewhere unless the qualification is not directly relevant to that role. Eligibility for continued payment of the allowance will be reviewed in accordance with these provisions and in consultation with the employee. Such a review will be completed by the receiving manager no later than 4 weeks after commencement of the new role. The review provisions in clause 28.9 will apply to any decisions made under this sub clause.

28.15 Payment of the allowance will not cease upon the employee being directed by the head of service to take up duties elsewhere on a temporary basis.

28.16 Provided that employees who are in progress towards obtaining a further qualification that the head of service agrees is relevant to the employee's new duties will continue to be paid the allowance for a period of six months after commencing the new duties, or longer period determined by the head of service, having regard to the further qualification being worked towards.

29. HIGHER DUTIES ALLOWANCE

29.1 Higher Duties Allowance is payable to an employee, other than a casual or temporary employee, who is directed to temporarily perform the duties of a position with a higher classification.

29.2 An employee performing higher duties in a position is subject to all conditions of that position.

29.3 An employee may only be paid in respect of one higher position even if they are performing the duties of 2 (two) higher positions at the same time.

29.4 An employee acting in a higher position for a period of 1 (one) day or more will be paid Higher Duties Allowance.

29.5 An employee receiving Higher Duties Allowance is entitled to normal incremental progression for the employee's substantive position. This increment gained while performing higher duties is maintained upon cessation of the higher duties.

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

29.7 Where the vacancy period of higher duties is expected to exceed 6 (six) months the vacancy will be advertised in the gazette.

29.8 Periods of higher duties should not normally extend beyond 12 (twelve) months. If after 12 (twelve) months the position is nominally vacant it will be advertised unless there are exceptional circumstances.

29.9 If an employee performs the duties of a higher position, the rate of Higher Duties Allowance payable is based upon the lowest salary point for the classification of that position. If, however, the employee has previous service for an increment or the bottom of the higher salary scale is lower than the employee's standard salary, the rate of Higher Duties Allowance payable is at the next salary point of the classification.

29.10 If an employee is being paid Higher Duties Allowance before going on paid leave and would have continued to receive Higher Duties Allowance if they had not taken leave, then the employee is entitled to payment of Higher Duties Allowance for the period of leave.

29.11 An employee performing higher duties continually for more than 1 (one) year may be granted an increment. Broken periods of performing higher duties may also be counted towards an increment if the employee has performed the higher duties for 12 (twelve) months in broken periods during the immediately preceding 2 (two) years, or 2 (two) years in the last 4 (four), or 3 (three) years in the past 6 (six) years.

29.12 This is called the 'one year in two year' rule. Further increments may be granted subject to the one-year in two-year rule and where the previous increment has been paid for 12 (twelve) months.

Note: Nothing in this clause will restrict casual or temporary employees performing duties of a higher office in accordance with the PSM Act and the PSM Standards.

30. ON-CALL ALLOWANCE

30.1 Where an employee is rostered on-call and required to be contactable and available to return to work within a reasonable time outside their ordinary hours of duty the employee will be entitled to be paid an on-call allowance of:

30.1.1 10% of the employee's hourly rate of pay for each hour rostered on call Monday to Friday;

30.1.2 15% of the employee's hourly rate of pay for each hour rostered on call Saturday and Sunday and rostered days off;

30.1.3 20% of the employee's hourly rate of pay for each hour rostered on call on Public Holidays and accrued days off.

30.2 An employee's pay for the purpose of calculation of payment under this clause will include Higher Duties Allowance and other allowances in the nature of pay.

30.3 The on-call allowance is not payable for any period that the employee does not hold themselves at the required degree of readiness to be recalled to duty.

30.4 Where an employee who has been rostered on-call returns to work at a designated place of work, the employee will be paid at the applicable overtime rates, subject to a minimum payment of 3 (three) hours overtime being made to the employee.

30.5 'Recalled to duty at a designated place of work' means a recall to perform duty at any designated place of work and is not limited to a recall to perform at the employee's usual place of work. For example, an employee may have a usual place of work, but while the employee is rostered on-call the employee might be recalled to perform duty at a number of different places of work.

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

30.7 If a recall to duty attracts a minimum overtime payment, subsequent recalls will attract a further minimum overtime payment(s) only if the employee commences after the minimum payment period has elapsed.

30.8 For the purposes of this clause, the minimum payment period is either 3 (three) hours or 1 (one) hour, as set out in subclauses 30.4 and 30.6 from the commencement of the recall to duty that attracts the overtime payment.

30.9 The on-call allowance is not payable for any period of time where overtime payments are made. Therefore, if the employee performs a period of duty for which overtime is payable, the on-call allowance is not paid for a period equal to the overtime period.

30.10 The provisions of clause 82 (Emergency Duty) of this Agreement will not apply where an employee is recalled to duty while on on-call.

30.11 The provisions relating to on call rosters are set out in subclauses 61.12 and 61.13.

31. ONEROUS ON-CALL

31.1 The head of service, employees and the employee's union or other employee representative will agree on work areas that are undertaking onerous on-call. For the purposes of this clause the term 'onerous on-call' will be taken to relate to areas where the likelihood of call back to duty, based on historical data, is greater than 15%.

31.2 The allowance payable to those employees undertaking onerous on-call will be the same as the allowance payable for close-call, as set out in subclause 32.1 (Close Call Allowance).

31.3 The areas receiving onerous on-call payments will be reviewed on a 6 (six) monthly basis to determine if the onerous incidents of on-call still fall within the onerous on-call category.

32. CLOSE-CALL ALLOWANCE

32.1 Where an employee is rostered on close-call and required to be contactable and available for immediate recall to duty outside their ordinary hours of duty the employee will be entitled to be paid a close-call allowance of:

32.1.1 20% of the employee's hourly rate of pay for each hour restricted Monday to Friday;

32.1.2 30% of the employee's hourly rate of pay for each hour restricted on Saturday and Sunday and rostered days off;

32.1.3 40% of the employee's hourly rate of pay for each hour restricted on Public Holidays and accrued days off.

32.2 An employee rostered on close-call must:

32.2.1 remain within a radius of 30 minutes vehicle travelling time from the work site; and

32.2.2 commence the return to work journey immediately on being recalled, being within 5 (five) minutes from time of recall.

32.3 An employee's pay for the purpose of calculation of payment under this clause will include Higher Duties Allowance and other allowances in the nature of pay.

32.4 The close-call allowance is not payable for any period that the employee does not hold themselves at the required degree of readiness to be recalled.

32.5 Where an employee who has been rostered on close-call is recalled to duty at a designated place of work, the employee will be paid at the applicable overtime rates, subject to a minimum payment of 3 (three) hours overtime being made to the employee.

32.6 'Recalled to duty at a designated place of work' means a recall to perform duty at any designated place of work and is not limited to a recall to perform at the employee's usual place of work. For example, an employee may have a usual place of work, but while the employee is restricted, the employee might be recalled to perform duty at a number of different places of work.

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

32.8 If a recall to duty attracts a minimum overtime payment, subsequent recalls will attract a further minimum overtime payment(s) only if the employee commences after the minimum payment period has elapsed.

32.9 For the purposes of this clause, the minimum payment period is either 3 (three) hours or 1 (one) hour, as set out in subclauses 32.5 and 32.7 from the commencement of the recall to duty that attracts the overtime payment.

32.10 The close-call allowance is not payable for any period of time where overtime payments are made. Therefore, if the employee performs a period of duty for which overtime is payable, the close-call allowance is not paid for a period equal to the overtime period.

32.11 The provisions of clause 82 (Emergency Duty) of this Agreement will not apply where an employee is recalled to duty while on close-call.

33. HEALTH AND WELLBEING PAYMENT

Purpose

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

Entitlement

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

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

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

Eligibility

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

Approved Activities

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

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

33.8 Where the head of service approved a reimbursement payment in accordance with clause 33.2 the total reimbursed amount will be included in with the employees fortnightly pay and will not be subject to tax.

Section E Penalties

34. PENALTIES - GENERAL

34.1 Applicable penalty rates will be paid to all eligible employees including part-time and casual employees.

34.2 Penalty rates will be based on 1/38th of the full-time weekly rate of pay for the nurses or midwives classification.

35. WEEKDAY PENALTY RATES

35.1 For all rostered hours worked between midnight Sunday and midnight Friday:

35.1.1 **Day shift** means a shift that commences at or after 0700 hrs - incurs no penalties;

35.1.2 Evening **shift** means a shift that commences at or after 1200 hrs (midday) and ceasing at or after 1800hrs - incurs a 12.5% penalty;

35.1.3 Night **shift** means a shift that commences at or after 1800 hrs and continues after midnight, - incurs a 25 % penalty.

36. WEEKEND PENALTY RATES

36.1 For all rostered hours worked after midnight Friday until midnight on Saturday a 50% penalty will be paid.

36.2 For all rostered hours worked after midnight Saturday until midnight on Sunday a 75% penalty will be paid.

36.3 RNs/RMs Level 4 and 5 may be paid shift work penalties, provided that authorisation of the head of service has been obtained, in cases where the requirement to perform shift work, or to perform extra duty is regular and/or excessive, and is related to the provision of clinical services.

37. 12-HOUR SHIFT PENALTY RATES

37.1 In lieu of other shift penalties, all employees who work a 12-hour shift will be paid a 25% penalty for any hours worked from midnight Sunday until midnight on Friday that fall outside the hours of 0730 hrs to 1800 hrs. 12-hour shift arrangements are set out in clause 58 (12 Hour Shifts) of this Agreement.

38. PUBLIC HOLIDAY PENALTIES

38.1 The penalties paid for Public Holidays to employees are dependent on their annual leave entitlements as set out below in Table 2.

38.2 Payment of the 150% penalty rate under this clause precludes an employee accruing additional annual leave under paragraphs 101.4.1 and 101.4.2 of this Agreement.

Table 2. Type of Worker, Annual Leave Entitlements and Public Holiday Penalties.

Annual Leave Entitlement (see clause 101)	Penalty
4 Weeks	**150%** in lieu of other shift work penalty
5 Weeks	**150%** in lieu of other shift work penalty
6 Weeks	**50%** in addition to any applicable shift penalty
7 Weeks	**50%** in addition to any applicable shift penalty

39. REGULAR PART-TIME EMPLOYEES PERFORMING A ROSTERED EXTRA SHIFT ON A PUBLIC HOLIDAY

39.1 In accordance with subclause 84.1 regular part-time employees performing a rostered extra shift on a Public Holiday will receive a 25% shift loading in addition to the Public Holiday rate as set out in clause 38 above.

40. CASUAL EMPLOYEES WORKING ON PUBLIC HOLIDAYS

40.1 For all hours worked on a Public Holiday, a casual employee will be paid a Public Holiday shift penalty of 150% in addition to the employee's ordinary rate of pay.

40.2 The term 'ordinary rate of pay' in this clause includes the casual loading as set out in subclause 46.2 of this Agreement.

40.3 The penalty prescribed in subclause 40.1 (150% Public Holiday shift penalty) will be paid in lieu of any other shift work penalty payable under clauses 35 and 36 (Weekday and Weekend Penalties Rates).

41. DAYLIGHT SAVINGS ARRANGEMENTS

41.1 During the changes from Australian Eastern Standard Time to Australian Eastern Daylight Time, employees will be paid according to the clock, with the exception of casual employment arrangements under clause 46 and overtime arrangements under Section L which will be paid according to the hours actually worked. This means that at the beginning of daylight saving employees working an overnight shift will work one hour less but will be paid for the full shift, and when daylight saving ends employees will work for an extra hour but will be paid according to the clock.

Section F Employment in the ACT Public Sector (ACTPS)

42. TYPES OF EMPLOYMENT

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

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

42.1.2 short-term temporary employment for a period not exceeding 12 months on a full-time or part-time basis, engaged for a specified period of time or for a specified task; or

42.1.3 long-term temporary employment for a period greater than 12 months but not exceeding 5 (five) years on a full-time or part-time basis, engaged for a specified period of time; or

42.1.4 casual employment.

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

42.3 Persons engaged in Nursing and Midwifery classifications are required to provide evidence of current registration to practice with the Australian Health Practitioner Regulation Agency (AHPRA) under the Health Practitioner Regulation National Law (ACT) before engagement is confirmed and thereafter annually.

43. NOTICE OF ENGAGEMENT

43.1 At the time of appointment or engagement the head of service will inform each person in writing of the terms of the person's employment, including:

43.1.1 the type of employment;

43.1.2 whether a probationary period applies and the expected duration of the period;

43.1.3 if the person is engaged as a fixed term employee, the duration of the engagement;

43.1.4 the ordinary weekly hours;

43.1.5 the ordinary weekly hours before overtime is payable; and

43.1.6 a list of the main instruments governing the terms and conditions of the person's employment.

44. REVIEW OF EMPLOYMENT STATUS

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

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

44.2 Having considered the request the manager/supervisor will respond in writing, giving reasons, within a six week timeframe.

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

44.4 A selection process initiated under this clause will be conducted with the use of a joint selection committee in accordance with clause 54 of this Agreement.

45. NOTICE OF TERMINATION

45.1 Where an employee's employment is to be terminated at the initiative of the head of service, other than in accordance with subclause 138.8 or Section V, the notice periods set out in the Fair Work Act will apply.

45.2 Where an employee's employment is to be terminated at the initiative of the employee, the employee will provide written notice of their resignation from the ACTPS to the head of service at least 2 (two) weeks prior to the proposed date of the resignation.

45.3 The period of notice required in subclause 45.2 may be reduced by agreement in writing between the employee and the head of service.

45.4 Notwithstanding anything else in this clause, an employee with less than 12 month's service only needs to provide 1 (one) week's notice.

46. CASUAL EMPLOYMENT

46.1 A casual employee is an employee who is engaged on an irregular or occasional basis, and whose hours of work are subject to variation by the head of service. To provide relief for staff absences, a casual employee may be required to perform work according to a fixed roster.

46.2 A person engaged as a casual employee will be paid at the same rate of pay as would be applicable to an employee performing the duties and hours of that role. In addition the casual employee will receive a 25 % loading in addition to the ordinary hourly rate of pay as set out in Schedule 1 of this Agreement in lieu of paid leave entitlements, other than long service leave, and in lieu of payment for Public Holidays on which the employee did not work. The loading will be calculated as a percentage of the ordinary hourly rate of pay.

46.3 A casual employee is eligible to receive payment of shift penalties in accordance with Section E. The loading paid under subclause 46.2 is not taken into account in the calculation of shift penalties, except as provided for in clause 40.

46.4 A casual employee is eligible to receive payment for overtime in accordance with Section L. The loading paid under subclause 46.2 is not taken into account in the calculation of overtime, except as provided for in clause 40.

46.5 Where a casual employee is notified, less than 2 (two) hours prior to the commencement of a shift, of the cancellation or reduction in duration of that shift, the employee will be entitled to payment in full for the scheduled shift.

46.6 Where it is mutually agreed between the casual employee and their manager/supervisor to cease duty prior to the scheduled completion of a shift, the employee will not be entitled to payment for the portion of the shift not worked.

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

46.8 If during the course of a shift, a casual employee's services are no longer required within one work area then the employee may be redeployed to another appropriate area for which they have the skills. If the casual employee does not agree to be redeployed, then the employee may be released for the remainder of the shift.

46.9 If the casual employee chooses not to be redeployed they will not be entitled to receive payment for the portion of the shift not worked.

47. SECURE WORKFORCE CONVERSION PROCESS AND INSOURCING AND SECURE EMPLOYMENT

47.1 The ACTPS is committed to promoting permanent employment and job security for employees within the ACTPS and accordingly agrees to the provisions in this clause.

47.2 For the purposes of giving effect to this commitment, which is further outlined in this Agreement, including at subclauses 2.2 to 2.5, a Joint Union and ACT Government Secure Workforce Conversion Process has been established by the ACT Government. The Secure Workforce Conversion Process delivers important outcomes regarding secure work for temporary and casual employees.

47.3 In accordance with subclauses 2.2 to 2.5, assessments will occur through the Secure Workforce Conversion Process which will facilitate recommendations to the head of service as to whether a position, or group of positions, or a temporary or casual employee, should be converted to permanency. Where such a recommendation has been made, the Head of Service will endeavour to convert the position(s) or employee(s) to permanent employment. The head of service may appoint the employee(s) currently in the relevant positions without a further merit selection process, if the head of service is satisfied that the relevant employee(s) meets the requirements of the proposed position and the criteria of the Secure Work Conversion Process.

47.4 Where the Secure Workforce Conversion Process has made a recommendation to the head of service that a position or group of positions, or an employee with temporary or casual employment should be converted to permanency and the head of service decides not to appoint the relevant employee(s) in accordance with subclause 47.3, the head of service will provide written reasons for their decision.

47.5 The ACTPS is committed to establishing an Insourcing and Secure Employment Framework for assessing if applicable procured work should be provided by the public sector.

47.6 The ACTPS is committed to all of the following:

47.6.1 Minimising the use of consultants and contractors and labour-hire across the ACTPS.

47.6.2 Minimising the use of sub-contractors and increase the use of direct employment of workers across the ACTPS.

47.6.3 Supporting direct employment relationships, but where sub-contractors are operating, that industrial and legal mechanisms to protect their rights, be developed and implemented.

47.7 As part of the introduction of the Secure Employment framework and to assist in the promotion of permanent employment for employees, the ACTPS will ensure that the employees of any consultants or contractors the ACTPS proposes to engage, receive pay and conditions at least equivalent in overall terms to ACTPS pay and conditions.

47.8 Prior to making decisions about matters covered by this clause appropriate consultation must be undertaken with relevant employees and unions in accordance with clause 149 of this Agreement.

Section G Relocation Support

48. REIMBURSEMENT OF RELOCATION EXPENSES

48.1 The purpose of this reimbursement is to provide financial assistance to employees recruited from interstate or overseas with the reasonable costs of relocation.

48.2 The head of service may approve the reimbursement to a new employee of such an amount up to a pre-determined ceiling as the head of service considers is reasonable in the new employee's circumstances. The relevant pre-determined ceiling is set out in the table below:

Employee Circumstances	**Reimbursement Ceiling**
Single with no dependants	$12,000
Additional Payment per dependant (up to 6)	$2,000
Additional payment per dependant (in excess of 6)	$1,750

48.3 In order for a new employee to be reimbursed costs, valid receipted tax invoices must be provided.

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

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

48.6 In the event that the employee terminates their employment with the ACTPS within 24 months of the date of engagement and does not commence employment with another ACTPS business unit within one month, the employee may be required by the head of service to repay:

48.6.1 in the case the employee terminates employment within 12 months from the date of appointment – 100% of the amount reimbursed; or

48.6.2 in the case the employee terminates employment more than 12 months and less than 24 months from the date of appointment – 50% of the amount reimbursed.

Section H Probation

49. PROBATION

49.1 Where a person is appointed on probation under the PSM Act, the period of probation will ordinarily be no more than 6 (six) months.

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

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

49.3 Probation will provide a supportive process for the employee during which mutual evaluation and decisions about permanent appointment can be made.

49.4 There must be at least two formal assessments of an employee's performance at appropriate and reasonable points of the probationary period. The head of service must provide the employee with a copy of each assessment report and provide the employee with an opportunity to respond within 7 (seven) business days.

49.4.1 If the assessment warrants the manager/supervisor's recommendation that the head of service terminate the employee's employment, that recommendation will be included in the assessment report.

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

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

49.6 A period of extension will not be longer than 6 (six) months unless it is for extraordinary circumstances and has been approved by the head of service.

49.7 A decision of the head of service to accept the recommendation to terminate the appointment of an officer on probation as per subclause 49.4.1 is excluded from Section S (Internal Review Procedures) and Section T (Appeal Mechanism) of this Agreement.

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

Section I Selection and Advancement

50. PREAMBLE

50.1 Subject to normal merit selection for promotion under the provisions of the PSM Act the following clauses will apply.

51. PROMOTION

51.1 To ensure that selection and advancement in the ACTPS is based on merit as set out in the PSM Act, a competitive selection process should be used to assess the merit of applicants for promotion, appointment, fixed term engagement, temporary transfers to a higher office for more than 3 (three) months and temporary engagement for a term over 12 (twelve) months.

51.2 This clause should be read in conjunction with Section C - Nursing and Midwifery Classifications and Career Pathways Enhancement.

52. PROMOTION AFTER ACTING

52.1 The head of service may approve the promotion of an employee into a nominally vacant position without an additional selection process where:

52.1.1 the employee has acted in the vacant position (or a position with identical selection criteria) for a period of more than 12 (twelve) continuous months and has undergone a merit selection process in order to act in the position; and

52.1.2 the vacant position was initially advertised for a minimum period of 6 (six) months with the possibility of an extension; and

52.1.3 organisational requirements and financing for the position exist; and

52.1.4 on reasonable grounds an additional merit selection process would not identify a more meritorious applicant than the position's present occupant; and

52.1.5 immediately before the promotion, the employee's manager assesses the employee against the selection criteria for the position as satisfactory; and

52.1.6 there is no potentially or actually excess employee suitable to be placed in the position.

52.2 For the purposes of paragraph 52.1.1 the 12 (twelve) months continuous acting may not be considered to have been broken where the employee performs the duties of another position at the same or higher level during the 12 (twelve) month period.

52.3 For the purposes of paragraph 52.1.1 a merit selection process means a process of selection for filling a vacant position on the basis of the merit of the applicant(s), which includes:

52.3.1 advertisement of the position in the ACT Government Gazette;

52.3.2 comparative assessment of suitable applicants for the position, if there is more than one applicant; and

52.3.3 selection based on the recommendation of a Selection Advisory Committee or a Joint Selection Committee.

52.4 The promotion of an employee in accordance with subclause 52.1 will be notified as a promotion to a non-advertised vacancy. Any suitable qualified employee may lodge an appeal against the process for positions at or below RN/RM Level 2 of this Agreement, or may apply for an internal review of the process for positions at or above RN/RM Level 3 as set out in Section S (Internal Review Procedures) of this Agreement.

53. DIRECT APPOINTMENT OF EN 1/RN1/RM1

53.1 Where it suits the operations of the ACTPS, and a substantive vacancy exists, a suitably qualified employee may be directly appointed or promoted, without advertising, to a EN1/RN1/RM1 position.

53.2 Before an employee can be appointed under this clause, the employee must be assessed as suitable.

53.3 A policy will be developed in consultation with employees and their representatives for the application of this clause.

54. JOINT SELECTION COMMITTEES

54.1 A Joint Selection Committee will consist of a minimum of:

54.1.1 a Chairperson who has appropriate skills and experience, nominated by the head of service;

54.1.2 a person who has appropriate skills and experience, nominated by the union(s); and

54.1.3 a person who has appropriate skills and experience, nominated by the head of service from a list of employees, and agreed by the head of service and the union(s).

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

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

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

Section J Hours of Work

55. ORDINARY HOURS OF WORK

55.1 The ordinary hours of work, exclusive of meal breaks, of all full-time employees will not exceed an average of 38 (thirty-eight) hours per week.

55.2 The ordinary hours of work for a full time employee will be performed according to a roster in shifts as required, with hours worked in excess of an average of 38 (thirty-eight) hours per week and not otherwise remunerated being credited towards an ADO with pay.

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

55.4 Except where provided for under clause 82, travel to and from work is not paid.

56. STANDARD DAY, EVENING AND NIGHT SHIFTS

56.1 There are standard shift/work patterns based around 8-hour morning, 8-hour evening and 10-hour night shifts.

56.2 These standard core shift patterns will provide the following basis for rostering:

56.2.1 **Day shift** means a shift that commences at or between 0700 hrs and 1000 hrs inclusive;

56.2.2 **Evening shift** means a shift that commences at or after 1200 hrs (midday) and ceasing at or after 1800 hrs; and

56.2.3 **Night shift** means a shift that commences at or after 1800 hrs and continues after midnight, and ceasing at or before 0730 hrs.

57. NON-STANDARD SHIFTS

57.1 A non-standard shift is any shift that does not meet the definition in clause 56. Non-standard shift rostering means incorporating non-standard shifts on a designated/local work area (unit, ward, etc.) roster.

57.2 The head of service may, after undertaking a genuine consultation process in line with the consultation provisions set out at clauses 149 and 150, and after obtaining the agreement of the majority of employees affected, by way of written ballot, introduce non-standard shift rostering to an existing/established roster (e.g. an individual ward/unit roster, not across a division/s or hospital) to provide for non-standard shifts of no less than 4 (four) and no more than 12 (twelve) hours.

57.3 Where such rostering is proposed, the head of service must:

57.3.1 meet the consultation requirements under clauses 149 and 150, including consulting with the relevant union;

57.3.2 demonstrate and outline genuine business and patient/consumer need for the proposed change; and

57.3.3 demonstrate that other options have been canvassed but cannot as effectively meet business and patient/consumer needs.

57.4 Where the introduction of non-standard shift rostering is agreed to by the majority of employees in a designated/local work area, the head of service must:

57.4.1 as far as practicable manage its introduction through the voluntary participation of affected staff to work non-standard shifts;

57.4.2 genuinely consider any individual request by an employee/s to have their personal circumstances considered when drafting a roster;

57.4.3 provide employees with a minimum of 3 (three) months' notice prior to the introduction of non-standard shift rostering;

57.4.4 ensure that the new arrangements are consistent with all relevant legislation and ACT Government policies and procedures;

57.4.5 ensure that safe staffing levels and reasonable workloads will be, and are, met/maintained;

57.4.6 provide for the review of the new arrangements within 12 (twelve) months of introduction including considering employee satisfaction and well-being, and whether safe staffing levels and reasonable workloads have been met/maintained; and

57.4.7 provide for the affected employees to be balloted again, at 12 (twelve) months after introduction, to decide whether to maintain the non-standard shift rostering, or revert to standard shift rostering.

57.5 Where the majority of employees in a designated/local work area do not agree to the introduction of non-standard shift rostering, or its continuation in accordance with 57.4, standard shift roster patterns will apply.

57.6 Nothing in this clause restricts an employee's right to make a request for flexible working arrangements in accordance with clause 86.

58. 12 HOUR SHIFTS

58.1 12-hour shifts will be accessible to either full-time or part-time employees.

58.2 No employee will be required to work a 12-hour shift that has not been agreed.

58.3 A 12-hour shift will not have a span of more than 12.5 hours, including a paid or unpaid meal break of 30 minutes.

58.4 In addition to a paid or unpaid meal break of 30 minutes, an employee working on a 12-hour shift will be entitled to 2 (two) 20-minute tea breaks.

58.5 Regular part-time employees working 12-hour shifts will be permitted to perform extra shifts.

58.6 As set out in clause 37 (12 Hour Shift Penalty Rates) of this Agreement, an employee who works a 12 hour shift will be paid a penalty of 25% for any hours worked from midnight Sunday until midnight on Friday that fall outside the hours of 0730 hrs to 1800 hrs.

58.7 Appropriate weekend penalty rates will be paid in lieu of the 12-hour shift additional penalty rates as set out in clause 36 (Weekend Penalty Rates) of this Agreement, as follows:

58.7.1 for any hours worked after midnight Friday until midnight on Saturday a 50% penalty will be paid;

58.7.2 for any hours worked after midnight Saturday to midnight Sundays a 75% penalty will be paid.

58.8 No employee will be permitted to perform 2 (two) continuous 12-hour shifts.

59. ROSTERING

59.1 The rostering guidelines and efficiencies are provided at Schedule 8 of this Agreement for the purpose of assisting to meet the obligations in this Agreement.

60. JOINT REVIEW OF ROSTERING, WORK PATTERNS AND IMPACTS ON EMPLOYEE WELL-BEING AND SAFETY

60.1 The Head of Service and the ANMF recognise that working patterns, rostering practices and the nature of shift work, which support the delivery of health services to the community, can have significant impacts on the health and wellbeing of nursing and midwifery employees. It is also recognised that more can and should be done to ensure that existing rostering practices and work patterns meet the needs of employees to both balance their work and personal life, and provide for a positive work experience.

60.2 As such, it is agreed that a sound implementation framework is required to provide transparent and safe rostering practices and positive working arrangements for employees.

60.3 The Head of Service and the ANMF are committed to working together to develop a sound implementation framework, which may include the development of Rostering Standards and Rostering Procedures, and, without pre-empting future Enterprise Agreement bargaining outcomes, changes to the express terms of the Enterprise Agreement.

60.4 Therefore, the Head of Service and the ANMF agree to conduct a joint review of all matters related to Rostering and Work Patterns, and their impact on employee well-being and safety.

60.5 For this purpose a Joint Committee will be established.

60.6 The Joint Committee will meet within 3 months of the commencement of this Agreement. At the first meeting, the terms of reference, schedule of meetings and draft project plan will be developed.

60.7 The Joint Committee will comprise of the following 8 members:

60.7.1 One representative nominated by the ANMF, who is the Union co-chair of the committee.

60.7.2 One representative nominated by the employer, who shall be the Territory co-chair of the committee.

60.7.3 3 worker representatives, nominated by the ANMF, and 3 Directorate representatives, nominated by the Territory.

60.8 In undertaking its work, the Joint Committee will consider the following matters:

60.8.1 A report from a comprehensive review of existing (or worked) rosters including reviewing rostering patterns and practices, roster development process and actual working arrangements;

60.8.2 The express terms of the Enterprise Agreement, including any terms that any committee member considers may be ambiguous;

60.8.3 Contemporary health and safety, industrial relations, and healthcare (including Nursing and Midwifery) research and practices in relation to rostering, work patterns and improving employee health, safety and well-being;

60.8.4 Any existing guidance policy and procedure material that is directly relevant to the rostering and work patterns of ACTPS nursing and midwifery employees; and

60.8.5 Any other matter as determined by the Committee.

60.9 The Joint Committee will be provided a secretariat function by the Directorates, and be adequately resourced to ensure the Joint Committee can complete the work in the set timeframes as agreed in the Terms of Reference.

60.10 The Joint Committee will finalise a report and a set of recommendations (which will likely include proposed changes to the terms of the Enterprise Agreement) along with a draft implementation framework (which may include the provision of draft standards and a draft operational procedure) within 12 months of the first Committee meeting.

60.11 Although the parties recognise all principles as currently expressed at Schedule 8 must be taken into account when developing a draft implementation framework, the parties agree that the principal focus of conducting this review, and suggesting proposed amendments or changes, is improving employee well-being and safety and providing for a positive work experience for nursing and midwifery employees.

61. ROSTERING PRACTICE

61.1 A full draft roster will be posted 28 days (4 weeks) prior to the date of effect. Employees' requests for specific shifts should be submitted by this time.

61.2 All final rosters will be published 14 days prior to date of effect, and all rosters will be monitored on a weekly basis. Staffing resources will be allocated to meet predicted workload, caseloads and care needs. This roster may be altered only in an emergency, when another employee is absent from duty to enable the nursing/midwifery service to operate, or, at the instigation of the employee, with the mutual agreement of the employee and the head of service.

61.3 Additional appropriately skilled nurses and midwives will be provided to supplement actual care needs on a shift-by-shift basis. The needs for additional staff will be determined by various means including professional judgment of the CNC or equivalent, in consultation with the relevant DON/ADON or equivalent as required.

61.4 Rosters will provide for an appropriate balance of skilled staff, be fair and equitable and incorporate safe rostering practices.

61.5 The work of each shift will be continuous.

61.6 An employee will not be rostered to perform ordinary duty for more than 7 (seven) consecutive days or shifts.

61.7 Wherever practicable, days off duty will be arranged so that at least 2 (two) consecutive days or shifts are rostered off duty at any one time.

61.8 An employee will have 9 (nine) hours off between the cessation of one shift and the commencement of another.

61.9 If the employee works overtime, the employee will not return for 9 (nine) hours unless requested to do so by the relevant manager/supervisor and this has been agreed to by the employee.

Review of Rostering Practices

61.10 Rostering practices will be regularly reviewed to improve the efficiency and effectiveness of rostering techniques used by the Directorates, and will give consideration to the following:

61.10.1 the terms and conditions of this Agreement;

61.10.2 Work Health and Safety considerations, including the impact of particular shifts or shift patterns;

61.10.3 ensuring fairness and equity;

61.10.4 suitability of existing principles, processes and timeframes for developing and promulgating rosters;

61.10.5 the need for regular auditing of rostering arrangements;

61.10.6 established shift patterns and existing working arrangements;

61.10.7 the Ratio/NHPPD mode as appropriate; and

61.10.8 the need for education for staff responsible for developing rosters.

61.11 A joint report on the outcome of the review of rostering practices will be prepared by the parties on an annual basis, and will be provided to the DCC.

On-Call and Close Call Rosters

61.12 The head of service may request full-time and part-time employees to participate in an on-call or close call roster, to ensure that an appropriate level of service is maintained, and to ensure that the burden of providing services does not fall unfairly on a small number of employees.

61.13 Following consultation and agreement with affected employees the head of service may institute new on-call or close call rosters in work locations that have a history of high levels of emergency recall to duty.

62. ACCRUED DAYS OFF (ADO)

62.1 The important role of Accrued Days Off (ADO's) in the management of fatigue and for a work life balance is recognised, and as such they should be taken when they are rostered.

62.2 ADO's are available for full-time employees and accrued in accordance with subclause 55.2.

62.3 Only in exceptional circumstances will an employee not take an ADO during the period it accrues.

62.4 If an ADO is deferred, it will be taken as soon as practicable.

62.5 The head of service and an employee may agree to vary their current system of ADO's.

62.6 Variations may occur within the following framework:

62.6.1 the employee may elect, with the consent of the manager/supervisor, to take an ADO provided usual procedures for the publishing of rosters are followed;

62.6.2 the employee may elect, with the consent of the manager/supervisor to take an ADO in part day amounts, subject to a minimum of 4 (four) hours; and

62.6.3 the employee may elect, with the consent of the manager/supervisor, to accrue some or all ADO's for the purpose of creating a bank of no more than 5 (five) days. This bank may be drawn on by the employee provided that the employee has taken their excess leave entitlement in the previous 12 (twelve) months and that this has been mutually agreed with the manager/supervisor or subject to reasonable notice by the employee to the manager/supervisor.

62.7 An employee's ADO will be contiguous with the employee's rostered days off (RDO's) in the case of employees working shifts, or weekends in the case of employees working Monday to Friday, unless otherwise requested by the employee.

62.8 An employee's ADO may be altered during the currency of a roster period by agreement between the local manager/supervisor and the employee.

62.9 For employees who do not accrue additional annual leave in lieu of the Public Holidays, the ADO will be so arranged that it does not coincide with a Public Holiday. Another day determined by the manager/supervisor within the same work cycle where possible will be taken in lieu. Where it is impracticable to substitute another day for the ADO and the employee is not required to work on the ADO, the employee will be granted 1(one) additional day's pay in respect of the Public Holiday.

62.10 In the case of employees who accrue additional annual leave in lieu of the Public Holidays the ADO may be arranged to coincide with a Public Holiday.

62.11 Where an employee is required to work on an ADO and it is impracticable to substitute another day for the ADO, overtime at the appropriate rate will be paid in addition to the pay applicable for the ADO.

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

62.13 This clause applies to employees who do not accrue additional annual leave in lieu of the Public Holidays. Any Public Holidays that are not worked will be regarded as a day worked for accrual purposes of the ADO. Provided that the employee would have been required to work the employee's usual hours on the holiday, had the day not been a Public Holiday.

62.14 An employee, who has not worked a complete cycle of shifts, will receive pro-rata accrued entitlements for each day worked in the incomplete cycle. In the case of termination of employment they will receive a pro-rata payment.

62.15 Where an employee ceases duty and has accrued credits, which have not been utilised under the ADO system, such credits will be paid to the employee on termination. Where the ADO has been taken in anticipation of credits, any shortfall at the date of termination will be recovered from the employee. The shortfall may be recovered from any final monies payable to the employee.

62.16 The hourly rate of pay for any accrued day off will be the rate of pay (including any Higher Duties Allowance applicable), which is in effect on the day that the accrued day off is taken, or in the case of termination of employment, on that day.

62.17 The provisions of this clause will not apply to an employee classified as a RN/RM Level 4 or Level 5. A RN/RM Level 4 or Level 5 may be required to perform duty on any day of the week to meet the requirements of the service but as far as practicable the ordinary hours of duty of individual employees will be confined to 38 (thirty-eight) hours per week to be worked on 5 (five) days.

62.18 In accordance with subclause 62.3, provisions relating to when an ADO may be taken will not apply in determining when an ADO may be taken by an employee:

62.18.1 where an employee cannot agree with the manager/supervisor for the taking of an ADO under the terms of subclause 62.3, the employee may be directed to take an ADO provided at least 2 (two) weeks' notice is given by the manager/supervisor;

62.18.2 if the employee is a day worker, an ADO cannot be taken on a weekend or a Public Holiday.

62.19 Where an ADO is deferred and banked in accordance with this clause, the additional shift worked in any roster period during which an ADO is deferred will be counted as ordinary duty. Such additional shifts will not be counted as overtime.

62.20 With the agreement of the relevant head of service, Senior Nursing/Midwifery Officer or Delegate, a full-time RN/RM Level 4 or Level 5 may arrange their ordinary working hours to take one ADO in every four-week period or to take half an ADO in every fortnight. The provisions relating to deferral and banking of ADOs set out in subclauses 62.3, 62.4, 62.5 and 62.6 above will apply.

63. MEAL BREAKS

63.1 In any shift of more than 6 (six) hours duration, an employee shall be granted an unpaid meal break of no less than 30 minutes and no more than 60 minutes, at a time to be fixed by the manager/supervisor to best meet service requirements.

63.2 A meal break may be scheduled at any time during the shift, after the end of the third hour following the employee's commencement of work on a shift, and must be completed no later than the end of the sixth hour after the employee commences work.

63.3 Except as provided in clause 65 (Paid Meal Breaks) of this Agreement, where it has not been possible to release an employee for a meal break of at least 30 minutes before 6 (six) hours of the employee's shift has passed, the employee will be paid overtime rates as set out in subclause 78.1 of this Agreement until the break is taken.

63.4 Subclause 63.3 does not apply in circumstances where clause 65 (Paid Meal Breaks) applies.

64. TEA BREAKS

64.1 Tea breaks shall count as working time and will be paid as such.

64.2 In any shift of more than 3 (three) hours duration, an employee will be permitted to take a paid tea break of up to 10 (ten) minutes.

64.3 In any shift of more than 6 (six) hours duration, an employee will be permitted to take 2 (two) paid tea breaks of up to 10 (ten) minutes each.

64.4 An employee working a shift of more than 10 (ten) hours will be allowed 2 (two) paid tea breaks of up to 20 minutes each.

64.5 Tea breaks may be taken at such times as best meet the employee's requirement for relief from work, and to best meet service requirements. On a shift of more than 8 (eight) hours duration, it will be usual for 1 (one) tea break to precede the meal break, and 1 (one) to follow the meal break.

64.6 Where necessary to meet service requirements in a workplace, an employee's meal break and tea breaks will be staggered.

64.7 With the agreement of the manager/supervisor, the employee may attach 1 (one) or 2 (two) tea breaks to the meal break, subject to operational requirements.

64.8 With the agreement of the manager/supervisor, an employee may attach 1 (one) or 2 (two) paid tea breaks to the end of the shift, provided clinical handover is not compromised.

65. PAID MEAL BREAKS

65.1 The manager/supervisor may roster an employee for a shift that incorporates a paid meal break in the following circumstances:

65.1.1 where work is performed in isolated locations; or

65.1.2 a shift is worked by only one or two employees; and

65.1.3 for reasons of patient and employee safety, it is not appropriate for the employees to leave the workplace to take a meal break.

65.2 The manager/supervisor will consult with affected employees before paid meal break provisions are implemented, and will consult with the unions and employees about any subsequent withdrawal or extension of the arrangement.

65.3 A paid meal break will be paid at ordinary time rates.

65.4 The incorporation of a paid meal break into an existing shift pattern will not usually result in a change to the starting and finishing times of a shift.

65.5 A paid meal break will not count towards the accumulation of an ADO or any entitlement to leave.

65.6 The provisions in clause 64 (Tea Breaks) of this Agreement also apply to these employees.

65.7 When an employee is rostered on a shift of more than 6 (six) hours duration that includes a paid meal break, the employees will be permitted to take a 30 (thirty) minute break during the shift.

65.8 An employee may take tea breaks and a meal break together, or in 2 (two), or 3 (three) parts totalling 50 (fifty) minutes, subject to operational requirements.

65.9 Whenever an employee is on a meal break, the employee will be required to be ready to return to duty as and when the need arises, and to resume the employee's break at a later time.

65.10 The employee and the employee's manager/supervisor will agree on the usual pattern of breaks within a shift, to best meet the employee's requirement for relief from work, and to best meet service requirements.

65.11 Subject to subclause 65.12 where as a result of exceptional clinical workload, an employee has not been able to take a 30 (thirty) minute meal break, the employee is entitled to be paid at overtime rates as per subclause 78.1 of this Agreement.

65.12 The employee must contact the CNC/CMC/Nurse Manager/After-Hours Hospital Manager (as appropriate) and either:

65.12.1 make an arrangement for relief to be provided to permit the employees to take a break; or

65.12.2 obtain approval to work without the break.

65.13 The sum paid in respect of the paid meal break will be taken to be included in the extra payment made in respect of the missed meal break under subclause 65.11.

66. BREAKS FROM ORDINARY DUTY

66.1 An employee will have 9 (nine) hours off between the cessation of one shift and the commencement of another.

67. REST BREAKS FOLLOWING NIGHT DUTY

67.1 An employee shall not be required to work a roster of night duty for a duration of less than 2 (two) weeks unless the employees indicates a preference for short-term, e.g. 1 (one) or 2 (two) nights of consecutive night duty shifts.

67.2 Subsequent to a period of night duty of at least 2 (two) weeks duration, an employee will have a period of not less than 48 (forty-eight) hours clear of duty. If the employee wishes, this period may be extended by rostering an ADO.

67.3 Any request for short-term night duty will be examined by the relevant manager/supervisor before the roster is issued to ensure that the roster pattern will not give rise to fatigue.

67.4 Where an employee elects to work a roster of night duty for a period of less than 2 (two) weeks, and the manager or supervisor agrees to that pattern of work, then the employee will have a period of not less than 20 (twenty) hours clear of duty before and after the period on duty. This will ensure there is an opportunity for an adequate rest break before and after a short-term period of night duty.

68. REST BREAKS FOLLOWING OVERTIME, ON-CALL AND CLOSE-CALL

68.1 Where an employee performs overtime:

68.1.1 after a shift ends which prevents the employee from having a continuous 9 (nine) hour break (including travel time) before the commencement of their next rostered shift; or

68.1.2 on a Saturday, a Sunday or a Public Holiday, or on a rostered day off without having had 9 (nine) consecutive hours off duty (including travel time) in 24 (twenty-four) hours preceding their ordinary commencing time on their next working day or shift; or

68.1.3 as a result of being recalled to duty for a period which commences more than 3 (three) hours prior to the start of the next rostered shift; or

68.1.4 as a result of being recalled to duty more than 3 (three) times in the immediate past 5 (five) consecutive days;

the employee is, unless directed to report for duty at an earlier time, entitled to be absent from duty, without loss of pay, until they have, from the time they ceased to perform overtime duty, been off duty for a continuous period of 9 (nine) hours (including travel time).

68.2 Where an employee who is rostered to be on-call as set out in clause 30 (On-Call Allowance) or close-call as set out in clause 32 (Close-Call Allowance) is recalled to duty, the employee, other than in exceptional circumstances as set out in subclause 74.3, is entitled to be absent from duty without loss of pay until they have, from the time they ceased duty, been off duty for a continuous period of 9 (nine) hours (including travel time).

68.3 In exceptional circumstances, if an employee is required by the head of service to resume or continue work without having the 9-hour rest break, including reasonable travel time, as set out in subclauses 74.1 and 74.2, the employee must:

68.3.1 be paid at double time rate until they are released from duty for that period and

68.3.2 the employee will then be entitled to be absent until they have had 9 (nine) consecutive hours off duty, including travelling time, without loss of pay for any ordinary working time occurring during that absence.

68.4 Appropriate staffing and roster management processes are required to enable the effective implementation of subclauses 74.1 and 74.2 and avoid the incidence of fatigue.

68.5 Irrespective of any entitlement an employee may or may not have under this clause, an employee should not be required to resume duty or continue duty particularly where, if due to work already performed, the employee is fatigued such that they may by unable to function in an effective, efficient and safe manner. No loss of pay will occur as a consequence of any rostered duty not performed as a result of this clause.

Section K Workload Management

69. WORKLOAD MANAGEMENT

69.1 The critical importance of effectively and safely managing nursing and midwifery workload is acknowledged.

69.2 The ACTPS will continue to manage workloads in consultation with the nursing and midwifery workforce, developing, maintaining and reviewing processes to routinely monitor, evaluate and, where necessary, respond proactively to identify and manage prioritisation and allocation of workload for nurses and midwives.

70. NURSING HOURS PER PATIENT DAY (NHPPD)

70.1 This clause does not apply to those areas staffed using ratios under Schedule 10 (Mandated Minimum Nurse/Midwife-to-Patient Ratios) This clause only applies to those areas staffed using NHPPD.

70.2 This clause applies in conjunction with clause 59 (Rostering), clause 61 (Rostering Practice), Schedule 8 (Rostering Guidelines and Efficiencies) and Schedule 9 (Staffing Resources Protocol) of this Agreement.

70.3 NHPPD is a formula for planning nursing/midwifery staffing levels. NHPPD is a measurement of the nursing hours that are estimated to be provided per patient/occupied bed over a 24-hour period. NHPPD is translated into FTE (Full Time Equivalent), which forms the basis of planned staffing levels in each clinical ward or unit.

70.4 In accordance with this clause actual NHPPD may fluctuate according to the factors described in subclause 70.5 below. Actual NHPPD may be reviewed against targeted NHPPD in accordance with clause subclause 149.8.5 of this Agreement. NHPPD is based on external benchmarked data. Any review of the relevant external benchmarks will be done in consultation with the DCC.

70.5 In applying NHPPD factors to be considered in the rostering of staff include, but are not limited to:

70.5.1 the benchmarked nursing/midwifery hours per patient;

70.5.2 the skill mix of the nurses/midwives;

70.5.3 the models of care for the unit/ward;

70.5.4 patient acuity;

70.5.5 the actual patient occupancy and throughput; and

70.5.6 the relative distribution of the workload over a 24-hour period.

70.6 Appropriate staffing levels will apply at all times to ensure that legal requirements are met, including requirements of this Agreement, and to cover any contingency for systems risk management to enable emergency procedures to be applied.

70.7 Additional appropriately skilled nurses and midwives will be provided to supplement actual care needs on a shift-by-shift basis. The need for additional staff in clinical areas will be determined

by various means including the professional judgment of the CNC or equivalent, in consultation with the relevant DON/ADON or equivalent as required.

70.8 Processes for managing workloads will be administered in an open and transparent manner.

71. STAFFING LEVELS

71.1 As set out in subclause 61.2 of this Agreement, all final rosters will be published 14 (fourteen) days prior to date of effect. The roster will display:

71.1.1 the planned occupancy of the unit/ward;

71.1.2 the minimum ratio/targeted NHPPD as appropriate;

71.1.3 the annualised FTE of nursing/midwifery staff;

71.1.4 the differentiation between direct and indirect nursing care hours;

71.1.5 the CNC or equivalent, and the Clinical Development Nurses/Midwives rostered on any day; and indicates that these classifications are not to be counted in the direct nursing/midwifery care NHPPD or ratio (unless provided for in the relevant provisions of Schedule 10).

71.1.6 the daily tallying of hours rostered; and

71.1.7 for those wards staffed using NHPPD, at the completion of each roster period the actual NHPPD will be documented.

71.2 Whenever unscheduled absences, changes in workload activity and/or whether the skill mix of the staff/team results in the requirement for additional nursing/midwifery resources, the operational redeployment of staff across shifts to be allocated to a ward or other clinical area will be consistent with the process set out in Schedule 9 (Staffing Resources Protocol) of this Agreement.

72. COMMUNITY HEALTH SERVICES

72.1 The ACTPS is committed, in partnership with the nursing and midwifery workforce, to developing, maintaining and reviewing processes to routinely monitor, evaluate and, where necessary, respond proactively to identify and manage prioritisation and allocation of workload for nurses/midwives in the community setting.

72.2 The ACTPS is committed to ensuring that adequate time is allocated for Nurses working in the community to carry out the clinical and administrative requirements of their roles. Work allocation shall be based on a maximum 75:25 ratio of direct clinical care and administrative time on a daily basis.

72.3 Administrative support for home-based palliative care will provide for dedicated resources and workload distribution that equate to a 75:25 ratio of direct clinical care and administrative time on a daily basis.

72.4 The ACTPS will continue to work with nursing and midwifery staff on improving the work allocation and notification system for staff in Women's Youth and Children and to improve client service.

73. NURSE PRACTITIONERS

73.1 The ACTPS is committed to ensuring that adequate time is allocated for Nurse Practitioners to carry out both the clinical and administrative requirements of their roles.

Section L Overtime

74. PREAMBLE

74.1 While it is acknowledged that peak workload periods may necessitate some additional hours being worked by some employees, for fatigue management and work life balance this should be regarded as the exception rather than the rule.

74.2 Arrangements for the performance of extra duty will give the employee the greatest degree of certainty and predictability.

74.3 The importance of employees balancing work and personal life is recognised. The appropriate balance is a critical element in developing and maintaining healthy and productive workplaces.

75. WHAT IS OVERTIME?

75.1 Overtime has two components:

75.1.1 when an employee works in excess of their rostered hours on any given shift/day; or

75.1.2 when an employee works in excess of full-time hours in a fortnight (i.e. 76 (seventy-six) hours per fortnight).

75.2 In respect of 75.1.2, the parties recognise that an issue may arise in the interpretation of this subclause and how it operates for full-time employees (when read with conjunction with subclause 55.1). Part-timers will continue to be covered by clause 84.

75.3 The parties agree that this matter will be considered in the Joint Review outlined at clause 60.

75.4 However, the parties agree that the intent of this clause is that a claim for overtime does not necessarily arise by simple virtue of a full-time employee being rostered (on a published roster) for more (or less) than 76 hours in a fortnight, with the hours of work to be considered in the context of, and averaged across, the published 28-day roster. This is particularly relevant for ADO accruals but may also extend beyond.

75.5 For clarity, the intent does not apply to any shifts that are in addition to shifts on the final published roster (e.g. ad-hoc overtime (or "extra") shifts, etc.), or if a full-time employee has agreed to be rostered on an overtime shift for a published roster.

75.6 Regardless, if an issue arises in the context of this matter, current existing work practices will continue for the life of this agreement, to ensure no employee is worse off.

76. AUTHORISATION OF OVERTIME

76.1 Authorisation from the head of service must be obtained before the overtime is worked. Where it is not reasonably practicable to seek approval beforehand, an application for overtime may be considered after the event. Any such application will need to include the circumstances as to why approval could not be obtained beforehand.

76.2 The head of service may vary existing delegations for the approval of overtime to permit an employee acting as team leader/in charge to approve overtime not exceeding 30 (thirty) minutes at the end of a normal shift, provided this is necessary to meet patient needs in emergency situations.

76.3 For any overtime that is performed beyond 30 (thirty) minutes, the employee who is team leader/in charge will inform the after-hours Hospital Manager (or equivalent).

77. REASONABLE OVERTIME

77.1 Subject to the provisions of this clause, an employee may be requested or required to work reasonable overtime.

77.2 Except for in circumstances covered by subclause 76.2, before requesting that an employee undertake reasonable overtime, the manager/supervisor will:

77.2.1 demonstrate that they have taken reasonable steps to ensure that the overtime occurrence was unavoidable and is for the minimal time possible;

77.2.2 ensure appropriate rest and/or meal breaks during the period of overtime;

77.2.3 take reasonable steps to ensure that the employee is neither fatigued nor at the risk of becoming fatigued and, therefore, take full account of the hours already performed by the employees;

77.2.4 consider and take account of the employee's individual circumstances when requesting overtime, including any pre-arranged personal commitments;

77.2.5 consider the fair distribution of the overtime amongst employees; and

77.2.6 consider the needs of the ACTPS, including the severity of the situation necessitating the overtime.

77.3 An employee has a right to refuse to work overtime in circumstances where the working of such overtime would result in the employee working hours which are unreasonable having regard to:

77.3.1 the employee's health and safety, fatigue management, and the balance of work and recreation;

77.3.2 the employee's personal circumstances;

77.3.3 any family responsibilities, childcare or other caring arrangements;

77.3.4 the needs of the workplace or ACTPS;

77.3.5 the notice (if any) given by the manager/supervisor of the overtime and by the employee of his or her intention to refuse it;

77.3.6 the usual patterns of work in the industry;

77.3.7 the nature of the employee's role, and the employee's level of responsibility; and

77.3.8 any other relevant matter.

77.4 The employee will communicate these difficulties as soon as practicable to the employee's manager/supervisor once the request to undertake overtime has been made.

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

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

77.6 In doing so, the manager/supervisor will consider and implement one or more of the following strategies to reduce the amount of excessive hours being worked:

77.6.1 review of workloads and priorities;

77.6.2 re-allocation of resources;

77.6.3 consideration of appropriate arrangements for time off in lieu; and

77.6.4 review staffing levels and/or classifications within the work group.

77.7 The Head of Service will consult with the Directorate Consultative Committee about the development and implementation of appropriate strategies to deal with issues associated with both paid and unpaid overtime.

78. OVERTIME RATES

78.1 All overtime worked by an employee is calculated on a daily basis as follows:

78.1.1 Monday to Saturday inclusive at the rate of time and a half for the first 3 (three) hours and double time thereafter;

78.1.2 Sunday at the rate of double time; and

78.1.3 Public Holidays at the rate of double time and a half.

Minimum Payment for Overtime

78.2 Where an employee is recalled to duty or works overtime that is not continuous with an employee's rostered hours, even if the work is completed in less than 3 (three) hours, the appropriate overtime rate will be paid with a minimum payment of 3 (three) hours duty.

Minimum period for Overtime for a period spanning before and after midnight

78.3 For overtime worked that is not continuous with an employee's rostered hours, and that covers a period of duty spanning before and after midnight, the minimum rate of overtime is calculated on the highest applicable rate.

79. HOW IS OVERTIME CALCULATED?

79.1 An employee's pay for the purpose of calculating overtime will include Higher Duties Allowance.

79.2 Overtime will be calculated to the nearest quarter of an hour of the total overtime claimed in each pay period.

79.3 Meal periods are to be disregarded when assessing the continuity of overtime attendance.

79.4 Overtime will not be regarded as hours worked for accrual purposes of ADO's.

79.5 For the purposes of this clause the hourly rate of pay for overtime will be calculated by dividing the full time fortnightly rate of pay for the employee's classification by 76 (seventy-six).

80. OVERTIME MEAL ALLOWANCE AND MEAL TICKETS

80.1 Where an employee is required to perform overtime:

80.1.1 immediately after the employee's rostered hours of duty have been worked, and after an unpaid meal break; or

80.1.2 continuous with the employee's rostered hours of duty, and beyond the end of the next defined meal period; or

80.1.3 before the employee's rostered hours of duty commence, and before an unpaid meal break taken before the commencement of that duty; or

80.1.4 on a day that the employee does not usually work, where the employee is granted an unpaid meal break; and

80.1.5 the employee cannot reasonably be expected to return home for a meal in the time allocated for a meal break;

then the ACTPS will pay the employee the overtime meal allowance, or provide the employee with a meal, or provide the employee with a meal ticket.

80.2 The arrangement will not apply in cases where the employee cannot readily avail themselves of a meal at a cafeteria or dining room conducted, controlled or assisted by the ACTPS. In these cases, overtime meal allowance will be paid in accordance with Schedule 11.

81. TRAVELLING WHEN RECALLED TO PERFORM DUTY PAYABLE AS OVERTIME

81.1 An employee is deemed to be on duty:

81.1.1 whilst travelling from the employee's place of residence to the employee's place of employment for the purpose of performing duty that is eligible to be paid at overtime rates; and

81.1.2 in returning to the employee's place of residence after ceasing to perform duty referred to in paragraph 81.1.1 above.

82. EMERGENCY DUTY

82.1 'Emergency duty' is defined as recall to duty in circumstances where the Hospital Commander (in the case of CHS) or the General Manager (in the case of NCH) has declared an emergency and an employee is recalled to duty as a result of such a declared emergency.

82.2 When an employee who is not rostered to be on-call is recalled to duty in an emergency, the employee will be paid at the overtime rates as set out in clause 78 (Overtime Rates) of this Agreement.

82.3 The minimum payment in this case is 3 (three) hours at the relevant overtime rate, together with reasonable travelling time to and from the employee's usual place of residence.

82.4 Employees may refuse emergency recall in circumstances as set out in clause 77 (Reasonable Overtime) of this Agreement.

83. ABSENCE FROM DUTY IN LIEU OF PAYMENT OF OVERTIME

83.1 Where an employee performs approved overtime, the employee and the relevant head of service may agree that, in lieu of the overtime rates set out in clause 78 (Overtime Rates) of this Agreement:

83.1.1 the employee will be released from ordinary duty for a period of time equal to the overtime worked, and

83.1.2 be paid an allowance to bring the total pay in respect of the overtime the employee has worked to the same level as would have been the case had the overtime been paid for in the normal manner.

83.2 Time off in lieu of overtime will be paid at the rate of single time only, and will not attract any shift penalty payments, except that untaken time in lieu must on termination be paid to the employee at the overtime rate applicable to the overtime worked.

84. ROSTERED EXTRA SHIFTS PERFORMED BY PART-TIME EMPLOYEES

84.1 A rostered extra shift that is in excess of a part-time employee's agreed fortnightly hours but less than full-time hours (i.e. 76 (seventy-six) hours) is not considered overtime, but is an extra shift that incurs a loading of 25%.

84.2 Where a part-time employee works in excess of their rostered hours on any given shift/day the employee will be paid at the applicable overtime rates as set out in clause 78 (Overtime Rates).

84.3 Where a part-time employee works in excess of full-time hours in a fortnight the employee will be paid at the applicable overtime rates as set out in clause 78 (Overtime Rates).

84.4 Hours worked in excess of a part-time employee's agreed fortnightly hours of duty do not qualify for accrual credit towards annual leave or personal leave.

Section M Flexible Working Arrangements and Employee Support

85. INTRODUCTION

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

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

86. REQUESTS FOR FLEXIBLE WORKING ARRANGEMENTS

86.1 An employee may apply to the head of service for flexible working arrangements to support their work and life balance. The head of service must give the employee a written response to the request within 21 (twenty-one) calendar days of receiving the request, stating whether the request is approved and the reasons if the request is refused.

86.2 An employee may request a flexible working arrangement, in accordance with the FW Act, in any of the following circumstances relating to the employee:

86.2.1 They seek working arrangements to suit their personal circumstances.

86.2.2 They have a parental or other caring responsibility of a child of school age or younger.

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

86.2.4 They have a disability.

86.2.5 They are 55 or older.

86.2.6 They are experiencing family or domestic violence.

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

86.2.8 They are pregnant.

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

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

86.4.1 flexible starting and finishing times;

86.4.2 non-standard shifts;

86.4.3 ability to take a few hours off work, and make it up later;

86.4.4 home based work on a short or long term basis;

86.4.5 part-time work;

86.4.6 job sharing;

86.4.7 purchased leave;

86.4.8 annual leave;

86.4.9 long service leave;

86.4.10 leave without pay; and

86.4.11 leave not provided for elsewhere.

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

86.6 Where a request for a flexible working arrangement is received, the head of service must consult with the employee and provide a written response to the request within 21 days.

86.7 The head of service may only deny an employee's request for flexible working arrangements, or a variation to existing flexible working arrangements, where there are reasonable business grounds for doing so and where all the following apply:

86.7.1 The head of service has discussed the request with the employee.

86.7.2 The head of service has genuinely tried to reach an agreement with the employee about making changes to the employee's working arrangements to accommodate the employee's particular circumstances.

86.7.3 An agreement has not been reached between the head of service and employee.

86.7.4 The head of service has considered the consequences of the refusal for the employee.

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

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

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

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

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

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

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

86.9.1 Details of the reasons for the refusal.

86.9.2 The reasonable business grounds for refusing the request.

86.9.3 How the reasonable business grounds apply to the request.

86.9.4 One of the following:

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

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

86.9.5 The dispute mechanisms available under clause 152 and the ability to refer the dispute to the FWC for resolution.

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

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

86.11.1 at the annual review; or

86.11.2 in exceptional circumstances between annual reviews.

86.12 3 months' notice must be given to amend or cease the flexible working arrangement, unless a lesser period is agreed by both parties or where there are extenuating circumstances.

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

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

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

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

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

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

87. REGULAR PART-TIME EMPLOYMENT

Access to Part-Time Employment

87.1 A person may be employed in any classification as a part-time employee for an agreed number of regular hours that is less than the ordinary weekly hours of duty for a full-time employee (as set out in clause 55 – ordinary hours of work).

87.2 Consistent with subclause 42.2, part-time employees will receive, on a proportionate basis, equivalent pay and conditions to those of full-time employees unless specifically stated elsewhere in this Agreement.

87.3 Proposals to reduce hours below full-time employment may be initiated by the head of service for operational reasons. An employee who wishes to work part-time may apply for a flexible working arrangement in accordance with clause 86.

87.4 The head of service will obtain the written agreement of a full-time employee before the employee converts to part-time.

87.5 No pressure will be exerted on full-time employees to convert to part-time employment or to transfer to another position to make way for part-time employment.

87.6 The agreed period, number and pattern of hours and commencement and cessation times for part-time work will be agreed between the employee and their manager/supervisor and recorded in writing.

Variation to Part-Time Hours

87.7 Proposals to vary part-time employment arrangements may be initiated by the head of service for operational reasons or by an employee for personal reasons.

87.8 Where an employee initiates a proposal the head of service will have regard to the personal reasons put by the employee in support of the proposal and to their business unit's operational requirements.

87.9 The head of service will obtain the written agreement of the part-time employee before the employee's hours are varied.

87.10 No pressure will be exerted on an employee to vary their hours of employment or to transfer to another position.

87.11 The agreed period, number and pattern of hours and commencement and cessation times for parti-time work will be agreed between the employee and their manager/supervisor and recorded in writing.

88. JOB SHARING

88.1 In this clause 'employee' refers to employees other than casual employees.

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

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

88.4 The pattern of hours for the job sharing arrangement will be agreed between the employee and the head of service. However, any single attendance at the place of work will be for no less than 4 (four) consecutive hours.

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

88.6 In the event that either employee ceases to participate in the job sharing arrangement, the arrangement will terminate.

89. PART-TIME EMPLOYMENT FOLLOWING BIRTH LEAVE, PRIMARY CARE GIVER LEAVE, ADOPTION OR PERMANENT CARE LEAVE OR PARENTAL LEAVE

89.1 Subject to this clause the head of service will approve an application by an employee employed on a full-time basis who returns to work after accessing birth leave, primary caregiver leave or parental leave to work on a part-time basis up until the date which is 3 (three) years from the birth or adoption of a child or the granting of parental responsibility for a foster child.

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

89.3 The maximum aggregate period of part-time employment that may be approved for an employee under subclause 89.1 is 7 (seven) years.

89.4 Either the employee who accesses Primary Care Giver leave under clause 113 or Adoption, Permanent or Long Term Care leave under clause 117 or the employee who is entitled to and accesses Birth Leave under clause 111 will be entitled to access part-time employment as provided in clause 91.

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

90. HOME-BASED WORK

90.1 The diverse nature of work conducted in the ACTPS lends itself to a range of working environments. From time to time workplaces will include work undertaken in the field and in the home.

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

90.3 In determining appropriate home-based work arrangements, the head of service and the employee will consider a range of matters, including:

90.3.1 appropriate and effective communication with office-based employees;

90.3.2 the need to ensure adequate interaction with colleagues;

90.3.3 the nature of the job and operational requirements;

90.3.4 privacy and security considerations;

90.3.5 health and safety considerations;

90.3.6 the effect on clients; and

90.3.7 adequate performance monitoring arrangements.

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

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

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

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

91. EMPLOYEE ASSISTANCE PROGRAM

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

92. SCHEDULING OF MEETINGS

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

93. VACATION CHILDCARE SUBSIDY

93.1 This clause applies to an employee (other than a casual employee or a temporary employee who has been engaged by the ACTPS for a period of less than 12 months) with school age children who makes a timely application, with regard to work and rostering arrangements applying in their particular business unit, based on their accrued annual leave, purchased leave or long service leave during school holidays that is rejected. The head of service must make a payment to the employee of $52.00 per day towards the cost of each school child enrolled in an accredited school holiday program for each calendar year subject to all the following conditions:

93.1.1 The maximum payable per child over a 5-day period is $260.

93.1.2 The maximum payable days per child per year is 10.

93.1.3 The maximum number of children the benefit is payable for is 3.

93.1.4 Payment will not be made without the production of a receipt(s).

93.2 An accredited school holiday program is a program approved and/or subsidised by a state, territory or local government.

93.3 The payment will apply only on the days when the employee is at work.

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

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

94. FAMILY CARE COSTS

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

95. EMPLOYEES WHO ARE BREASTFEEDING

95.1 Employees who are breastfeeding will be provided with the facilities and support necessary to enable the employee to combine a continuation of such breastfeeding with the employee's employment.

95.2 The Directorate will continue to maintain a room for employees who are breastfeeding. The room will be a clean and hygienic private room with power points and a lockable door. The room will contain a comfortable chair, a table, a refrigerator for the storage of expressed breast milk, a storage area for equipment and an electric breast pump, and access to a washing facility in close proximity to the room. Where there is no room available another appropriate space may be used.

95.3 The provision of facilities and support to employees who are breastfeeding will include up to 1 (one) hour paid lactation break(s) per day/shift, with such break(s) in addition to rest periods, tea breaks and meal breaks otherwise prescribed in this Agreement, to allow employees who are breastfeeding the opportunity to feed their infants or to express their milk.

95.4 Breaks may be taken in 1 (one), 2 (two) or more parts. Length and scheduling of breaks will be the subject of consultation and agreement between the employee and the relevant manager/supervisor. Paid lactation breaks are not cumulative.

95.5 An employee may utilise the lactation break to return home or to attend another location, subject to consultation and agreement between the employee and the relevant manager/supervisor, and that the employee takes no longer break than provided for under this clause.

95.6 In addition to the above entitlements, employees who are breastfeeding and who, in the course of their employment, are required to travel between work locations and/or client contacts will have easy access to the specified lactation facilities within the Agencies.

95.7 Access to ongoing lactation support and education through the on-site Maternity Units at The Canberra Hospital and North Canberra Hospital, and Community Lactation Consultants will be provided.

95.8 The highest priority for flexible working rosters will be given where the employee who is breastfeeding returns to work within 12 (twelve) months of the birth of the child.

95.9 A high priority for rostering preferences will apply to employees who are breastfeeding for the second year after the birth of the child.

96. TRANSFER TO A SAFE JOB DURING PREGNANCY

Purpose

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

Eligibility

96.2 In accordance with the NES, this clause applies to a pregnant employee when they do the following:

96.2.1 Give notice that they will be applying for birth leave.

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

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

Paid absence for "No Safe job" Purposes

96.4 If the head of service determines that an appropriate safe job is not available, and when the employee has completed 12 (twelve) months of continuous service, the employee is entitled to take paid absence for 'no safe job' purposes for the stated period at a rate of payment that is the same rate as would be paid if the employee was granted personal leave. This period of paid absence will count as service for all purposes.

96.5 If the head of service determines an appropriate safe job is not available, and the employee has not completed 12 (twelve) months of continuous service, the employee is entitled to take unpaid absence for 'no safe job' purposes. This period of absence will not count as service for any purposes but will not break continuity of service.

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

Section N Leave

97. LEAVE GENERAL

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

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

98. PERSONAL LEAVE

Purpose

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

98.1.1 The employee is unfit for work because of a personal illness, or personal injury.

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

98.1.2.1 They are ill or injured.

98.1.2.2 They are affected by an unexpected emergency.

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

98.1.4 There are special, extraordinary or unforeseen circumstances in accordance with clause 99.

98.2 Personal leave supports the Territory's commitment to a healthy workplace and workforce.

Eligibility

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

Entitlement

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

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

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

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

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

Interim Arrangements Until Daily Accrual is Implemented

98.9 Except for a short-term temporary employee and an employee to whom subclause 98.10 applies, an employee's personal leave balance will be credited with an equivalent of 3.6 weeks of personal leave on the day they commence with the Territory.

98.10 On engagement under the PSM Act, employees who have prior service recognised for personal leave purposes will be credited with any personal leave balance accrued with the previous employer. On the employee's normal accrual date, the employee will then receive personal leave in accordance with subclause 98.11. Where the employee's personal leave prior to engagement with the ACTPS was accrued on a progressive basis, rather than credited prospectively, the employee will also be credited with an amount of personal leave which is the difference between 3.6 weeks and any personal leave already accrued with the previous employer for their current accrual year.

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

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

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

Short term Temporary Employees

98.13 A short-term temporary employee will be credited with 0.2 weeks' of personal leave on commencement and a further 0.8 weeks of personal leave after 4 (four) weeks continuous service. Thereafter the employee will be credited with 0.2 weeks' of personal leave for each subsequent four weeks of continuous service up to a maximum of 2 (two) weeks in the employee's first 12 (twelve) months of service.

98.14 After 12 (twelve) months continuous service, short-term temporary employees will receive 5.2 weeks of personal leave with pay. For every subsequent 12 (twelve) months of service short-term temporary employees will receive personal leave in accordance with subclause 98.11.

98.15 A short-term temporary employee subsequently appointed under the PSM Act prior to completing 12 (twelve) months service will have their personal leave balance bought up to the equivalent of 3.6 weeks, less any personal leave with pay granted under subclause 98.3. For subsequent accruals that short-term temporary employee will receive personal leave on the same basis as an employee on the anniversary of the commencement of their employment.

Daily Accrual Implementation

98.16 Personal leave will move to daily accrual from 1 January 2024 or the commencement of this Agreement, which ever is the latter.

98.17 An employee's personal leave credit accrues daily according to the following formula:

Total hours of leave accrued per day = (A x B x D) / C, where:

98.17.1 A = number of ordinary hours per week worked.

98.17.2 B = one where the day counts as service or zero where the day does not count as service or is an unauthorised absence.

98.17.3 C = number of calendar days in the year.

98.17.4 D = number of weeks of personal leave an employee is entitled to a year.

98.18 For the purpose of subclause 98.17 the basic leave entitlement is one of the following:

98.18.1 In the case of 36.75 hour workers, 132.3 hours leave (3.6 weeks) for each full year worked.

98.18.2 In the case of 38 hour workers, 136.8 hours leave (3.6 weeks) for each full year worked.

98.19 Except for a short-term temporary employee and an employee to whom subclause 98.20 applies, an employee's personal leave balance will be credited with an equivalent of 3.6 weeks of personal leave on the day they commence with the Territory.

98.20 On engagement under the PSM Act, employees who have prior service recognised for personal leave purposes will be credited with any personal leave balance accrued with the previous employer.

98.21 For permanent and long-term temporary employees, if the personal leave balance brought over from the previous employer, in accordance with subclause 98.20, is less than 3.6 weeks, the employee will be credited with the difference between 3.6 weeks and the balance brought over.

98.22 For short-term temporary employees, if the personal leave balance brought over from the previous employer, in accordance with subclause 98.20, is less than 1.8 weeks, the employee will be credited with the difference between 1.8 weeks and the balance brought over.

Short-term temporary employees

98.23 A short-term temporary employee will be credited with 1.8 weeks of personal leave on commencement. On each day of service thereafter, the employee will receive a credit based on the formula in subclause 98.17.

98.24 After 12 months continuous service short-term temporary employees will receive 1.8 weeks of personal leave with pay.

98.25 A short-term temporary employee subsequently appointed under the PSM Act within 12 months of commencement will be credited with an additional 1.8 weeks of personal leave.

Transition period for daily accrual implementation

98.26 Current employees will transition from annual accrual to daily accrual of personal leave on the next accrual date for each employee within the transition year. On this date, and each day of service thereafter, the employee will receive a credit based on the formula in subclause 98.17.

98.27 Current employees will be credited with an equivalent of 3.6 weeks of personal leave on their accrual date in the transition year. On this date, and each day of service thereafter, the employee will receive a credit based on the formula in subclause 98.17.

When Personal Leave Credits Have Been Exhausted

98.28 The head of service may, for any reason including where personal leave credits have been exhausted, and subject to the production of documentary evidence, grant an employee a period of unpaid personal leave for personal illness or injury or for the care or support of a member of the employee's immediate family or household who is ill or injured or affected by an unexpected emergency. This is in addition to the entitlement of unpaid carer's leave that employees have under the National Employment Standards.

Note: In such circumstances, alternative arrangements are provided for at subclause 98.60.

98.29 Despite subclause 98.28, the head of service may allow an employee, when the employee provides documentary evidence that the employee has a personal illness or injury, or needs to provide care or support to a member of the employee's immediate family or household, to anticipate one year's personal leave accrual where all full pay credits are exhausted.

98.30 Any personal leave debits that an employee has at the time they cease employment with the ACTPS will be treated as a debt in accordance with clause 15. The debt will be recovered from any termination payment owing to the employee, except in the case of death.

98.31 Temporary employees are not entitled to anticipate personal leave but may be granted up to an aggregate of twenty days without pay in the first twelve months.

98.32 The head of service may, in exceptional circumstances and subject to the production of documentary evidence, grant an employee an additional period of paid personal leave for personal illness or injury, or for the employee to provide care or support to a member of the employee's immediate family who is ill or injured. This leave may be at either full or half pay. Such leave will not be granted if the absence is due to a condition for which the employee is receiving compensation under the Safety, Rehabilitation and Compensation Act 1988.

Other Provisions

98.33 An employee in receipt of workers compensation for more than 45 (forty-five) weeks will accrue personal leave on the basis of hours actually worked.

98.34 Unused personal leave credits will not be paid out on cessation of employment.

Evidence and Conditions

98.35 An employee must give notice of their intention to take personal leave. The notice must be provided to their manager/supervisor as soon as practicable (which in the case of a personal illness or injury may be a time immediately after the leave has commenced) and must advise the duration, or expected duration, of the leave.

98.36 The head of service may grant personal leave if they are satisfied there is sufficient cause, having considered any requested or required documentary evidence.

98.37 An employee must provide requested or required documentary evidence in a timely manner. To unduly withhold the provision of documentary evidence may result in the personal leave application not being approved for payment.

98.38 The head of service will accept either of the following documentary evidence as proof of personal illness or injury or the need to care for or support a member of the employee's

immediate family or household who is ill or injured or who is affected by an unexpected emergency:

98.38.1 A certificate from a registered medical practitioner or registered health professional who is operating within their scope of practice.

98.38.2 A statutory declaration made by the employee if it is not reasonably practicable for the employee to give the employer a certificate.

98.39 Unless otherwise approved by the head of service, an employee may only access a maximum of three consecutive days of paid personal leave on each occasion up to an accumulated maximum of seven days in any accrual year, without providing documentary evidence. Absences for personal leave without documentary evidence in excess of three consecutive days, or seven days in any accrual year will be without pay.

98.40 Up until daily accrual implementation subclause 98.39 will apply. Following daily accrual implementation the maximum days without a certificate will reset on the next accrual/transition date for the employee and apply for the remaining part of the calendar year. From 1 January 2025, unless otherwise approved by the head of service, an employee may only access a maximum of 3 consecutive days of paid personal leave on each occasion up to an accumulated maximum of 7 days without providing documentary evidence. This will continue to reset on 1 January each year. Absences for personal leave without documentary evidence in excess of 3 consecutive days, or 7 days in any calendar year is without pay.

98.41 Notwithstanding subclause 98.39 the head of service may, with reasonable cause, request the employee to provide a medical certificate from a registered medical practitioner or registered health professional or a statutory declaration for any absence from duty on personal leave at the time of notification of the absence.

98.42 Any personal leave without pay that goes beyond a maximum continuous period of combined paid and unpaid personal leave of 78 (seventy-eight) weeks will not count as service for any purpose.

98.43 For clarity, any other form of leave taken in lieu of unpaid personal leave that is intended to cover illness or injury will be considered as personal leave for the purpose of subclause 98.42.

98.44 The head of service must approve an application for up to five days personal leave for the purpose of bonding leave in accordance with subclause 115.4.

98.45 The head of service may refer an employee for a medical examination by a nominated registered medical practitioner or registered health professional, or nominated panel of registered medical practitioners or registered health professionals at any time for any of the following reasons:

98.45.1 The head of service is concerned about the wellbeing of an employee and considers that the health of the employee is affecting, or has reasonable expectation that it may affect, the employee's ability to adequately perform their duties.

98.45.2 The head of service considers that documentary evidence supplied in support of an absence due to personal illness or injury is inadequate.

98.45.3 The employee has been absent on account of illness for a total of thirteen weeks in any 26 (twenty-six) week period.

98.46 The head of service may require the employee to take personal leave after considering the results of a medical examination requested by the head of service.

Rate of Payment

98.47 Personal leave will be granted with pay except where it is granted without pay under subclauses 98.28, 98.31 or 98.38.

98.48 Subject to the approval of the head of service, an employee may request to use personal leave at half pay for absences of at least one week. Such absences will be deducted from the employee's accrued credits at a rate of 50% of the period of absence.

98.49 Any personal leave taken must be deducted from the employee's credit.

Effect on Other Entitlements

98.50 Personal leave with pay will count as service for all purposes.

98.51 Personal leave without pay, other than provided for at subclause 98.42, will count as service for all purposes.

98.52 Where an employee is absent on paid personal leave and a public holiday for which the employee is entitled to be paid falls within that period of absence, both of the following apply:

98.52.1 The employee will be paid as a normal public holiday for that day.

98.52.2 The public holiday will not be deducted from the employee's personal leave credits.

Interaction with Other Leave Types

98.53 This clause applies to an employee who suffers personal illness or injury, or provides care or support for a member of the employee's immediate family or household who is ill or injured or who is experiencing an unexpected emergency, for one day or longer while the employee is on one of the following types of leave:

98.53.1 Annual leave

98.53.2 Purchased leave

98.53.3 Long service leave

98.53.4 Unpaid birth leave

98.53.5 Unpaid parental leave

98.53.6 Grandparental leave

98.53.7 Accrued day off (ADO).

98.54 If the employee produces a certificate from a registered medical practitioner or a registered health professional operating within their scope of practice, or in the case of an unexpected emergency other satisfactory evidence; the employee may apply for personal leave.

98.55 Where an employee is subsequently granted the personal leave, the other leave must be re-credited for the period of the personal leave that falls within the period of other leave.

98.56 An employee cannot access paid personal leave while on paid birth leave or primary care giver's leave, or adoption, permanent or long term care leave, but can apply for personal leave during unpaid birth leave or parental leave.

98.57 If the employee has exhausted all paid personal leave, personal leave without pay cannot be substituted for unpaid birth leave.

98.58 If an employee exhausts the employee's paid personal leave entitlement and produces documentary evidence, as per subclause 98.38, as evidence of continuing personal illness or injury, or requirement to care or provide support to a member of the employee's immediate family or household, the employee may apply to the head of service for approval to take annual leave or long service leave. If approved, this leave will not break the continuity of the 78 (seventy eight) weeks under subclause 98.42.

99. PERSONAL LEAVE IN SPECIAL, EXTRAORDINARY OR UNFORESEEN CIRCUMSTANCES

99.1 Employees, other than casual employees, are eligible to apply for personal leave in special, extraordinary or unforeseen circumstances.

99.2 Personal leave in special, extraordinary or unforeseen circumstances, is non-cumulative and, if granted, is deducted from the employee's personal leave balance.

99.3 The head of service may grant a maximum of 10 (ten) days of personal leave, other than for personal illness or the care of the employee's immediate household who is sick or requires support, in an accrual year, in special, extraordinary, unforeseen or unexpected circumstances where it is essential that the employee have leave from the workplace. These 10 (ten) days are in addition to the 7 (seven) days personal leave without documentary evidence.

99.4 While personal leave in special, extraordinary or unforeseen circumstances does not normally require documentary evidence, the head of service may request reasonable evidence before granting the leave.

99.5 Personal leave in special, extraordinary or unforeseen circumstances must be granted with pay.

100.PERSONAL LEAVE - INFECTIOUS DISEASE CIRCUMSTANCES

100.1 Where an employee is prevented from attending for duty under the Public Health Act 1997, the head of service may grant that employee personal leave during that period.

100.2 The employee may also apply for the absence or a part of it to be deducted from their annual leave credit.

101.ANNUAL LEAVE

101.1 Annual leave is available to enable employees to be absent from duty for the purposes of rest and recreation.

Eligibility

101.2 Annual leave is available to all employees other than casual employees.

Entitlement

101.3 Full time employees (other than casual employees) are entitled to 152 hours annual leave (4 weeks), for each 12 (twelve) months worked.

101.4 For a full-time employee who is required to work ordinary hours:

101.4.1 on a roster that includes shift work and/or weekends and also Public Holidays will be entitled to leave of absence on full pay for a period equal to 266 hours (7 weeks) for each 12 (twelve) months continuous service;

101.4.2 on a roster that includes work on Public Holidays but not weekends will be entitled to leave of absence on full pay for a period equal to 228 hours (6 weeks) for each 12 (twelve) months continuous service;

101.4.3 on a roster that includes shift work and/or weekends but not Public Holidays will be entitled to leave of absence on full pay for a period equal to 190 hours (5 weeks) for each 12 (twelve) months continuous service;

101.4.4 an employee referred to in paragraphs 101.4.1 and 101.4.2 will be credited with an extra day's leave for any additional specially gazetted Public Holidays;

101.4.5 an employee referred to in paragraphs 101.4.1, 101.4.2 and 101.4.3 for short periods will be entitled to annual leave for the total period so worked on a pro-rata basis.

101.5 An employee's annual leave credit accrues on a daily basis, according to the formula set out below:

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

Where:

A = Number of ordinary hours per week worked;
B = One or zero (where the day does not count as service);
C = Number of calendar days in the year; and
D = Four (basic recreation leave accrual of four weeks), or the appropriate weekly amount in accordance with subclause 101.4.

101.6 Annual leave will not accrue during any period of unauthorised absence.

101.7 An annual leave credit does not accrue to an employee if the employee is absent from duty on leave for specified defence service, or full-time defence service. If the employee resumes duty after a period of specified defence service, annual leave will accrue from the date the employee resumes duty.

101.8 Employees will receive payment on separation from the ACTPS of any unused or un-transferred annual leave entitlement.

Additional Leave for Employees Rostered On-Call and Recalled to Duty on a Sunday or Public Holiday

101.9 This clause applies to employees who are eligible to accrue either 152 or 190 hours of annual leave, and who are rostered on-call or close-call and are recalled to duty on Sundays and Public Holidays.

101.10 When an employee to whom this clause applies is recalled to duty on a Sunday or Public Holiday, the employee will accrue additional annual leave.

101.11 Additional annual leave will accrue at the rate of four hours additional leave in respect of each Sunday or Public Holiday on which recall duty is performed, up to a maximum of 5 (five) days.

Evidence and Conditions

101.12 This clause should be read in conjunction with clause 127 (Leave Planning, Applications and Approvals) of this Agreement.

101.13 Employees are entitled to apply for annual leave in any combination, including several hours at a time, single day annual leave, or by using their entire annual leave credit in one period of leave.

101.14 Employees are encouraged to use their annual leave in the year that it accrues, and to this end should discuss their leave intentions with their manager/supervisor as soon as practicable.

101.15 An employee must make an application to the head of service to access their annual leave entitlement.

101.16 Having considered the requirements of this clause the head of service may approve an employee's application to access annual leave.

101.17 The head of service should approve an employee's application to take annual leave, subject to operational requirements.

101.18 If the head of service does not approve an employee's application for annual leave because of operational requirements, the head of service will consult with the employee to determine a mutually convenient alternative time (or times) for the employee to take the leave.

101.19 The head of service must, unless there are exceptional operational circumstances, approve an application for annual leave if it would enable an employee to reduce their annual leave credit below two and a half years' worth of accrued annual leave credit. However, in the case of exceptional operational circumstances, the head of service will consult with the employee to determine the time (or times) for the annual leave to be taken that is mutually convenient to both the administrative unit and the employee.

101.20 If an employee's approved annual leave is cancelled, or an employee is recalled to duty from leave, they will have the unused portion of their annual leave recredited and the employee will be entitled to be reimbursed reasonable travel costs and incidental expenses not otherwise recoverable under any insurance or from any other source.

101.21 If the operations of the ACTPS, or part of the ACTPS, are suspended at Christmas or another holiday period, the head of service may direct an employee to take annual leave at a time that is convenient to the working of the ACTPS, whether or not an application for leave has been made. However, this does not affect any other entitlements to leave under this Agreement.

101.22 If an employee has the equivalent of two years' accrued annual leave credits and unless exceptional operational circumstances exist, the employee and relevant manager/supervisor must agree, and implement an annual leave usage plan to ensure the employee's accrued leave credit will not exceed two and a half years' worth of annual leave credit.

101.23 If an employee does not agree to a reasonable annual leave usage plan the head of service may direct an employee who has accrued two and a half years' worth of annual leave credit to take enough annual leave to reduce the accrued leave credit to the equivalent of two years'

accrued credit, subject to giving the employee one calendar month notice. This clause does not apply to an employee who is on graduated return to work following compensation leave.

101.24 An employee who has an annual leave credit in excess of 2.5 years of accrued entitlement:

101.24.1 at the commencement of the Agreement; or

101.24.2 on joining, or returning to, the ACTPS; or

101.24.3 on returning to duty from compensation leave;

will have twelve months to reduce the employee's annual leave balance to 2.5 years' accrued entitlement or below.

101.25 An employee may not be directed under subclause 101.23 to take annual leave where the employee has made an application for a period of annual leave equal to or greater than the period specified in subclause 101.23 in the past 6 (six) months and the application was not approved. The manager/supervisor and the employee may agree to vary an annual leave usage plan.

101.26 The ACTPS is committed to the concept of work and life balance. As such when an employee is on annual leave, or has had annual leave approved for a period, the employee will not be required to work, or be rostered to work from the conclusion of the shift prior to the commencement of their leave until the commencement of their next rostered shift following the period of leave, including on-call or close-call, unless the employee is formally recalled to duty in exceptional circumstances.

101.27 Before recalling the employee to duty from a period of approved annual leave, the head of service must demonstrate that they have taken all reasonable steps to ensure that this recall to duty is unavoidable.

Rate of Payment

101.28 Annual leave will be granted with pay.

101.29 Payment for the annual leave will be based on the employee's ordinary hourly rate of pay, including allowances that count for all purposes, for the time the leave is taken. If an employee is being paid Higher Duties allowance before going on leave and would have continued to receive higher duties allowance had they not taken leave then the employee is entitled to payment of HDA during the leave.

101.30 The head of service may approve an application in accordance with clause 86 for annual leave may be granted at half pay with credits to be deducted on the same basis.

Effect on Other Entitlements

101.31 Annual leave will count as service for all purposes.

101.32 Public holidays for which the employee is entitled to payment that fall during the periods of absence on annual leave will be paid as a normal public holiday and will not be deducted from the employee's annual leave balance.

Access to Other Leave Entitlements

101.33 If personal leave is granted to the employee while they are on a period of annual leave, the annual leave will be re-credited for the period of paid personal leave granted.

101.34 Subject to the approval of the head of service, an employee who is on unpaid leave may be granted annual leave during that period, unless otherwise stated in this Agreement.

101.35 If an employee is prevented from attending for duty under the Public Health Act 1997, the head of service may grant annual leave during that period.

102.PAYMENT IN LIEU OF ANNUAL LEAVE

102.1 An employee may cash out their annual leave credit subject to the following:

102.1.1 the employee providing the head of service with a written election to do so;

102.1.2 the head of service authorising the election; and

102.1.3 the employee taking at least 1 (one) week of annual leave in conjunction with this entitlement or the employee has taken at least one week of annual leave in the past 6 (six) months; and

102.1.4 the cashing out will not result in a reduction in the balance of an employee's remaining annual leave credit below one year's accrued entitlement.

102.2 Payment in lieu of annual leave will be based on the employee's ordinary hourly rate of pay, including allowances that count for all purposes at the date of application. The cash out payment will be based on that pay that the employee would have received for a notional period of leave equal to the credit being cashed out and commencing on the day the application is made.

103.ANNUAL LEAVE LOADING

Eligibility

103.1 Employees who accrue annual leave under clause 101 are entitled to an annual leave loading. Part-time employees will be paid the amount of annual leave loading on a pro-rata basis.

Entitlement

103.2 Where an employee's entitlement is based on paragraph 103.6.1 the leave loading payable is subject to a maximum payment. This maximum payment is the equivalent of the Australian Bureau of Statistics' male average weekly total earnings for the May quarter of the year before the year in which the date of accrual occurs. Where the leave accrual is less than for a full year, or for part-time work, this maximum is applied on a pro-rata basis.

103.3 An employee whose employment ceases and who is entitled to payment instead of accumulated annual leave or pro-rata annual leave will be paid any accrued annual leave loading not yet paid and leave loading on pro-rata annual leave entitlement due on separation.

Evidence and Conditions

103.4 Annual leave loading accrued will be paid at such a time as the employee nominates, by making a written request to the head of service.

103.5 Any unpaid annual leave loading accrued by employees will be paid on the first payday in November following its accrual.

Rate of Payment

103.6 The amount of an employee's entitlement under subclause 103.1 will be based on whichever is the greater of the following:

103.6.1 Subject to subclause 103.2, 17.5% percent of the employee's ordinary annual rate of pay on 1 January multiplied by the number of hours of annual leave accrued during the preceding calendar year (excluding shift penalties); or

103.6.2 any shift penalties that the employee would have received had the employee not been on approved annual leave.

104.PURCHASED LEAVE

Purpose

104.1 Purchased leave is available to employees to enable them to be absent from duty to support their work/life balance.

Eligibility

104.2 Employees, other than casual employees, are eligible to apply to purchase leave.

Entitlement

104.3 Employees, other than School Nurses, may purchase leave in addition to the employee's usual annual leave entitlement, up to a maximum of 12 (twelve) weeks in any 12-month period, subject to head of service approval. The provisions for School Nurses are outlined in Schedule 4, of the Agreement.

104.4 An employee may apply, at any time, to the head of service for approval to participate in the purchased leave scheme.

104.5 The application must specify the amount of leave to be purchased in whole weeks up to a maximum of 12 (twelve) weeks, and the period over which the additional leave is to be acquitted.

104.6 Approval by the head of service for an employee to purchase and use purchased leave is subject to both the operational requirements of the workplace and the personal responsibilities of the employee.

104.7 Approval to purchase additional leave will not be given where an employee has an annual leave balance of two and a half years' worth of annual leave credit or more, except where the employee intends to use all excess annual leave credit before taking purchased leave.

104.8 Once an employee commences participation in the scheme, the employee may only opt out of the scheme before the expiration of the agreed acquittal period where:

104.8.1 the employee can demonstrate, in writing, that exceptional circumstances exist, such as unforeseen financial hardship, and the head of service agrees; or

104.8.2 the employee's employment with the ACTPS ceases before the expiration of the agreed acquittal period; or

104.8.3 the employee proceeds on paid birth or primary care giver leave.

104.9 If an employee transfers from one ACTPS Directorate to another ACTPS Directorate during the agreed acquittal period, the employee's continuation in the purchased leave scheme will be

subject to the separate approval of the gaining Directorate. Where such approval is not given, any money owing to the employee in respect of purchased leave not taken will be refunded to the employee as soon as practicable. Any shortfall in payments will be deducted from monies owing to the employee.

Evidence and Conditions

104.10 An employee should discuss with their manager/supervisor, as soon practicable, their intention to be absent on purchased leave.

104.11 An employee must make an application to the head of service to access their purchased leave entitlement.

104.12 Having considered the requirements of this clause the head of service may approve an employee's application to access purchased leave. A decision not to approve the leave must be made in accordance with subclause 97.2.

104.13 Approval by the head of service to grant purchased leave will be subject to the operational requirements of the workplace, the personal responsibilities of the employee and appropriate periods of notice.

104.14 A minimum of one week of purchased leave, or the pro-rata equivalent for part-time employees, must be taken at any one time unless the remaining balance is less than one week or the relevant head of service is satisfied, on evidence presented, there are exceptional circumstances which warrant purchased leave being taken in shorter periods.

104.15 Purchased leave must be used within the agreed acquittal period, not exceeding twelve months from the date of commencement in the scheme. Purchased leave not taken within the agreed acquittal period will be forfeited and the value of the leave refunded to the employee at the end of the acquittal period.

Rate of Payment

104.16 While an employee is on a period of purchased leave the employee will be paid at the rate of pay used to calculate the employee's deduction.

104.17 Purchased leave will be paid for by a fortnightly deduction from the employee's pay over an agreed acquittal period not exceeding 12 (twelve) months from the date the employee commences participation in the scheme.

104.18 Fortnightly deductions, from the employee's pay, will commence as soon as practicable following approval of the employee's application to participate in the purchased leave scheme. The deductions will be calculated on the employee's pay at the date of commencement of participation in the scheme, the amount of leave to be purchased and the agreed acquittal period.

104.19 Despite subclause 104.18, if the employee's pay changes during the acquittal period the employee may apply to the head of service for the deduction to be recalculated.

104.20 Fortnightly tax deductions will be calculated on the employee's gross pay after the deduction has been made for purchased leave.

104.21 Subject to subclause 104.22, allowances in the nature of salary may be included in the calculation of purchased leave payments where:

104.21.1 the head of service and the employee agree any or all of these allowances are appropriate; and

104.21.2 there is the likelihood the allowance will continue to be received over the duration of the acquittal period.

104.22 Disability allowances, which are paid according to the hours worked, cannot be included for the purposes of calculating purchased leave payments.

Effect on other Entitlements

104.23 Leave taken as purchased leave will count as service for all purposes.

104.24 Public holidays for which the employee is entitled to payment that fall during periods of absence on purchased leave will be paid as a normal public holiday and will not be deducted from the employee's purchased leave balance.

104.25 Purchased leave will not affect the payment and timing of pay increments or the accrual of other forms of leave.

104.26 The purchase of additional leave under this clause will not affect the superannuation obligations of the ACTPS and/or the employee involved.

Interaction with Other Leave Types

104.27 Where an employee provides a certificate from a registered medical practitioner or registered health professional operating within their scope of practice for a personal illness or injury or for the purpose of providing care or support for a member of the employee's family who is ill or injured or who is experiencing an unexpected emergency during a period of absence on purchased leave, the employee will have the purchased leave re-credited for that period covered by the medical certificate, and substituted by personal leave.

104.28 An employee participating in the scheme who proceeds on paid birth or primary care giver's leave must elect to do one of the following:

104.28.1 Exit the purchased leave scheme and have any money owing refunded.

104.28.2 Subject to subclause 104.29, remain in the scheme and have pay deductions continue during the period of paid birth of primary care giver's leave.

104.29 Purchased leave taken during an employee's absence on birth or primary care giver's leave will not extend the employee's total period of birth leave or primary care giver's leave.

104.30 An employee participating in the scheme who is in receipt of paid workers' compensation will have salary deductions for purchased leave continue. Normal conditions for purchased leave will apply for employees on graduated return to work programs; however entry into the scheme should be discussed with the rehabilitation case manager.

105.PUBLIC HOLIDAYS

Eligibility

105.1 Public holidays are available to employees other than casual employees.

Entitlement

105.2 Employees are entitled to be absent from duty on a day, or part of a day, that is a public holiday, in accordance with the FW Act and this clause.

105.3 The following days will be observed as public holidays under this Agreement:

105.3.1 1 January (New Year's Day) and if that day falls on a Saturday or Sunday the following Monday;

105.3.2 26 January (Australia Day) or if that day falls on a Saturday or Sunday the following Monday;

105.3.3 the second Monday in March (Canberra Day);

105.3.4 Good Friday;

105.3.5 the Saturday following Good Friday;

105.3.6 Easter Sunday;

105.3.7 the Monday following Good Friday;

105.3.8 25 April (Anzac Day) or if that day falls on a Saturday or Sunday, the following Monday;

105.3.9 27 May (Reconciliation Day), or, if that day is not a Monday, the following Monday;

105.3.10 the second Monday in June (the day for the observance of the anniversary of the birthday of the Sovereign);

105.3.11 the first Monday in October (Labour Day);

105.3.12 25 December (Christmas Day); and,

105.3.12.1 if that day falls on a Saturday, the following Monday

105.3.12.2 if that day falls on a Sunday, the following Tuesday;

105.3.13 26 December (Boxing Day); and,

105.3.13.1 if that day falls on a Saturday, the following Monday; or,

105.3.13.2 if that day falls on a Sunday, the following Tuesday.

105.4 In addition to the public holidays provided for under subclause 105.3, employees are entitled to be absent from duty as if it were a public holiday on all of the following:

105.4.1 the next business day after Boxing Day, or where:

105.4.1.1 Boxing Day falls on a Saturday, the following Tuesday; or

105.4.1.2 Boxing Day falls on a Sunday, the following Wednesday;

105.4.2 any other day, or a part of any other day, that the Minister declares to be a public holiday in the ACT under the Holidays Act 1958 (the Holidays Act); and

105.4.3 any other day, or a part of any other day, that the head of service declares to be a holiday under the PSM Act.

105.5 Where a day identified in subclause 105.3 is replaced by another day by an amendment to the Holidays Act, the replacement day will be observed as the public holiday in its place.

Rate of Payment

105.6 Subject to subclause 105.7 and 105.8, where an employee who is entitled to be absent from duty on a day, or a part of a day, that is a public holiday, and the employee is absent from duty, the employee will be paid at the employee's ordinary hourly rate for the employee's ordinary hours of work on that day or part-day.

105.7 A part-time employee will be entitled to observe a public holiday without loss of pay if the employee would usually have been required to work on the day of the week on which the public holiday falls. To remove any doubt, a part-time employee whose regular part-time hours do not fall on a public holiday will not be paid for that public holiday. An employee will not be paid for a public holiday which occurs during a period of leave without pay.

105.8 If a public holiday occurs on the day immediately before or immediately after an employee is on a period of leave without pay the employee is entitled to be paid for the public holiday.

Effect on Other Entitlements

105.9 Subject to subclause 105.10, public holidays count as service for all purposes.

105.10 A public holiday will not count as service if it occurs while the employee is on a period of leave not to count as service.

106.COMPASSIONATE LEAVE

Purpose

106.1 Compassionate leave is available to employees to enable them to be absent from duty when a member of an employee's immediate family or household:

106.1.1 has a personal illness or injury that poses a serious threat to the person's life; or

106.1.2 dies, including where a child is stillborn.

106.2 Compassionate leave is available to employees to enable them to be absent from duty when they experience a miscarriage or when an employee's domestic partner has experienced a miscarriage.

Eligibility

106.3 Compassionate leave is available to all employees.

Entitlement

106.4 An employee may be granted compassionate leave from the first day of service.

106.5 Compassionate leave is non-cumulative.

106.6 Employees are entitled to up to 5 (five) days of compassionate leave on each occasion of the death of a member of the employee's immediate family or household. The head of service may grant an additional period of paid or unpaid compassionate leave for this purpose.

106.7 Employees are entitled to up to 2 (two) days of compassionate leave on each occasion of personal illness or injury of a member of the employee's immediate family or household that

poses a serious threat to the person's life. The head of service may grant an additional period of paid or unpaid compassionate leave for this purpose.

Evidence and Conditions

106.8 The employee should discuss with their manager/supervisor, as soon as practicable, their absence or intention to be absent on compassionate leave.

106.9 An employee must make an application to the head of service to access compassionate leave.

106.10 The head of service may request evidence that would satisfy a reasonable person that an application for compassionate leave is for a purpose specified in subclause 106.1.

106.11 Once the employee has met the requirements of this clause, the head of service will approve an employee's application to access compassionate leave.

106.12 If the employee has not provided the evidence requested under subclause 106.10, a decision not to approve the leave may be taken in accordance with subclause 97.2.

Rate of Payment

106.13 Compassionate leave will be granted with pay, except for casual employees and except where it is granted without pay under subclause 106.6 or 106.7.

106.14 Compassionate leave is paid at the employee's base rate of pay, including relevant allowances for the ordinary hours the employee would have worked during the leave.

Effect on Other Entitlements

106.15 Compassionate leave with pay will count as service for all purposes.

106.16 Public Holidays for which the employee is entitled to payment that fall during periods of absence on paid compassionate leave will be paid as a normal public holiday and will not be considered an absence on compassionate leave.

Interaction with Other Leave Entitlements

106.17 If compassionate leave of at least one day is granted while an employee is absent on another type of leave, the other type of leave will be re-credited for the period of the absence on compassionate leave.

107.COMMUNITY SERVICE LEAVE

107.1 Community Service Leave is available to employees to allow them to be absent from the workplace to engage in the following three distinct types of community service activities;

107.1.1 jury service (including attendance for jury selection) that is required by or under a law of the Commonwealth, a state or a territory (108); or

107.1.2 a voluntary emergency management activity (109); or

107.1.3 other recognised voluntary community service activity (110).

108.JURY SERVICE

Eligibility

108.1 Community service leave for jury service is available to all employees.

Evidence and Conditions

108.2 Although the granting of community service leave for jury service is deemed to be approved, an employee must:

108.2.1 submit a leave application for the period of the absence; and

108.2.2 provide sufficient documentary evidence of the reason for the absence.

108.3 The employee should discuss with their manager/supervisor their intention to be absent on community service leave for jury service.

Rate of Payment

108.4 Community service leave for jury service will be granted with pay to employees other than casual employees.

108.5 If the employee is paid jury fees, this amount must be deducted from the employee's pay less reasonable out-of-pocket expenses.

Effect on Other Entitlements

108.6 Community service leave for jury service will count as service for all purposes.

108.7 Public holidays for which the employee is entitled to payment that fall during periods of absence on paid community service leave for jury service will be paid as a normal public holiday and will not be considered to be community service leave for jury service.

109.VOLUNTARY EMERGENCY MANAGEMENT

Eligibility

109.1 An employee who is a member of a relevant emergency service, including:

109.1.1 a state or territory emergency service;

109.1.2 a fire-fighting service;

109.1.3 a search and rescue unit; or

109.1.4 other volunteer service performing similar functions

is eligible for community service leave for voluntary emergency management.

109.2 A casual employee who is a member of a relevant emergency service is eligible to unpaid community service leave for voluntary emergency management service.

Entitlement

109.3 Eligible employees are entitled to be absent on unpaid leave to engage in a voluntary emergency management activities, subject to operational requirements in the workplace.

109.4 Eligible employees, other than casual employees, are eligible for up to 4 (four) days paid community service leave for voluntary emergency management per emergency.

109.5 Community service leave for voluntary emergency management is non-cumulative.

Evidence and Conditions

109.6 An employee should discuss their intention to be absent on paid or unpaid community service leave for voluntary emergency management with their manager/supervisor as soon as practicable, which may be at a time after the absence has started. The employee must advise the manager/supervisor of the period, or expected period, of the absence.

109.7 An employee must make an application to the head of service to access their community service leave entitlement for voluntary emergency management.

109.8 The employee must, if requested by the head of service, provide sufficient documentary evidence of the reason for the absence.

109.9 The head of service may grant paid community service leave for voluntary emergency management to enable the employee to fulfil an obligation in the event of a civil emergency.

109.10 Having considered the requirements of this clause the head of service may approve an employee's application to access paid community service leave for voluntary emergency management. A decision not to approve the leave will be taken in accordance with subclause 97.2.

Rate of Payment

109.11 Where paid leave is granted for community service leave for voluntary emergency management, it is paid at the employee's ordinary hourly rate of pay.

Effect on Other Entitlements

109.12 A period of approved community service leave for voluntary emergency management will count as service for all purposes.

109.13 Public holidays for which the employee is entitled to payment that fall during periods of absence on paid community service leave for voluntary emergency management will be paid as a normal public holiday and will not be considered to be community service leave for voluntary emergency management.

Additional Leave

109.14 Additional paid leave may be approved by the head of service for any voluntary emergency management duties required to be performed by an employee who is a member of a state or territory emergency service.

110.VOLUNTARY COMMUNITY SERVICE

Eligibility

110.1 Community service leave for voluntary community service is available to all employees.

Entitlement

110.2 Employees, other than casual employees, are entitled to up to 3 (three) days of paid leave for community service leave to engage in a recognised voluntary community service activity within a 12 (twelve) month period.

110.3 Community service leave for voluntary community service is non-cumulative.

110.4 An employee may be granted unpaid community service leave to engage in a recognised voluntary community service activity, subject to operational requirements in the workplace.

Evidence and Conditions

110.5 An employee should discuss their intention to be absent on community service leave for voluntary community service, as soon as practicable, with their manager/supervisor.

110.6 An employee must make an application to the head of service to access their community service leave for voluntary community service entitlement.

110.7 The head of service may request sufficient documentary evidence of the reason for the absence.

110.8 In considering an application from an employee for paid leave to engage in a voluntary community service activity, the head of service must consider whether:

110.8.1 the activity is a recognised voluntary activity and benefits the local community; and/or

110.8.2 the community organisation or project is an acceptable organisation or project as defined in whole-of-government policy or the employee's directorate's guidelines; and

110.8.3 there is a risk the activity would place the employee in a real or perceived conflict of interest.

110.9 Leave for a voluntary community service activity must not be approved for activities which:

110.9.1 involve any payment in cash or kind for the duties performed by the employee; or

110.9.2 replace work ordinarily undertaken by a paid worker; or

110.9.3 are undertaken solely for direct personal benefit of the employee; or

110.9.4 place the employee in a conflict of interest situation; or

110.9.5 are primarily focussed on promoting particular religious or political views; or

110.9.6 involves work which does not have a local community focus.

110.10 Having considered the requirements of this clause, the head of service may approve an application to access paid or unpaid community service leave for voluntary community service.

110.11 A decision not to approve the leave must be taken in accordance with subclause 97.2.

Rate of Payment

110.12 Community service leave for voluntary community service is granted with pay for the first 3 (three) days leave in a 12 (twelve) month period to all employees except casual employees.

Interaction with Other Entitlements

110.13 Community service leave for voluntary community service will count as service for all purposes up to a maximum of 23 (twenty-three) days in any 12 (twelve) month period.

110.14 Where the head of service has approved a request for unpaid community service leave for voluntary community service exceeding 20 (twenty) days in a 12 (twelve) month period, this leave in excess of 20 (twenty) days will not count as service.

110.15 Public holidays for which the employee is entitled to payment that fall during periods of absence on paid community service leave for voluntary community service will be paid as a normal public holiday and will not be considered to be community service leave for voluntary community service.

Access to Other Leave Entitlements

110.16 Leave granted under this provision may be taken in combination with approved annual or long service leave.

111.BIRTH LEAVE

Purpose

111.1 Birth leave is available to pregnant employees to enable them to be absent from duty to do any of the following:

111.1.1 Support their own wellbeing and to care for and bond with a newborn child.

111.1.2 Support the protection of the family and children under the Human Rights Act 2004

111.1.3 Support the employee's right to continuity of service.

Eligibility

111.2 An employee who is pregnant is eligible to be absent on birth leave.

111.3 An employee is eligible for birth leave where the following applies:

111.3.1 The employee gives birth to a newborn child.

111.3.2 The employee's pregnancy ends at or within 20 weeks of the estimated date of delivery of the child, including where a child is stillborn.

111.4 Where an employee's pregnancy ends by miscarriage, any birth leave which has been prospectively approved must be cancelled. In this circumstance, the employee may become eligible for compassionate leave in accordance with clause 106 and special birth leave in accordance with clause 112.

Eligibility – Paid Birth Leave

111.5 An employee, other than a casual employee, who is eligible for birth leave and who has completed 12 (twelve) months of continuous service, including recognised prior service, immediately prior to commencing a period of birth leave, is eligible for paid birth leave.

111.6 An employee, other than a casual employee, who is eligible for birth leave and who completes 12 (twelve) months of service within the first 24 (twenty-four) weeks of birth leave is eligible for paid birth leave for the period between completing twelve months of service and the end of the first 24 (twenty-four) weeks of birth leave.

111.7 An employee who is eligible for birth leave and who is on approved leave without pay is eligible for paid birth leave for the period between completing the approved period of leave without pay and the end of the first 24 (twenty-four) weeks of birth leave.

Entitlement

111.8 An eligible employee is entitled to be absent for up to 52 (fifty-two) weeks birth leave for each pregnancy. To avoid doubt, the entitlement under this clause does not increase in cases of multiple births.

111.9 Subject to subclause 111.5, an employee who is eligible for paid birth leave is entitled to be paid for the first 24 (twenty-four) weeks of birth leave, and this entitlement is in addition to the Federal paid parental leave scheme.

111.10 Birth leave is non-cumulative.

111.11 Subject to subclauses 111.13 and 111.14, an employee who is eligible for birth leave must absent herself from duty for a period commencing 6 (six) weeks prior to the estimated date of delivery of the child and ending 6 (six) weeks after the actual date of birth of the child.

111.12 An eligible employee's period of birth leave commences 6 (six) weeks prior to the estimated date of delivery unless one of the following applies:

111.12.1 The employee is approved a later commencement date under subclause 111.13. Birth leave will commence on the date recommended by the medical practitioner or registered midwife.

111.12.2 The child is born more than 6 (six) weeks before the estimated date of delivery. Birth leave will commence on the day the child is born.

111.12.3 The pregnancy ends at or within 20 (twenty) weeks of the estimated date of delivery of the child, including where a child is stillborn. Birth leave will commence on the day the pregnancy ends.

111.13 An employee who produces evidence from a registered medical practitioner or a registered midwife that they are fit for duty until a date less than 6 (six) weeks prior to the estimated date of delivery of the child may continue to work up until a date recommended by the medical practitioner or registered midwife, subject to the approval of the head of service.

111.14 An employee who has given birth to a child and produces evidence from a registered medical practitioner, or a registered midwife operating within their scope of practice, that they are fit for duty from a date less than 6 (six) weeks after the date of birth of the child may resume duty on a date recommended by the medical practitioner, or registered midwife operating within their scope of practice, subject to the approval of the head of service.

111.15 An employee who has given birth to a child may resume duty following the end of the 6 (six) week period after the birth of the child and earlier than the end of the approved period of birth leave subject to the approval of the head of service.

111.16 An employee is entitled to return to work in accordance with the provisions in the National Employment Standards of the FW Act.

Evidence and Conditions

111.17 An employee must give notice to their manager/supervisor as soon as practicable of their intention to be absent on birth leave.

111.18 Birth leave is deemed to be approved; however an employee must submit an application to the head of service for any period of birth leave. Having considered the requirements of this clause the head of service will approve an employee's application to access birth leave.

111.19 Prior to commencing birth leave an employee will provide the head of service with evidence of the pregnancy and the estimated date of delivery from a registered medical practitioner or a registered health professional who is operating within their scope of practice.

111.20 If requested by the head of service, an employee will provide the head of service with evidence of the birth and the date of the birth of the child as soon as possible after the birth of the child. Such evidence may include a copy of the birth certificate or documents provided by a registered health professional who is operating within their scope of practice.

Rate of Payment

111.21 The rate of payment to be paid to the employee during a paid period of birth leave is the same rate as would be paid if the employee was granted paid personal leave.

111.22 Despite subclause 111.21 where an employee varies their ordinary hours of work, either from part time to full time, from part time to different part time, or from full time to part time, during the 12 (twelve) month period directly preceding birth leave, the rate of payment for the paid component of their birth leave, which will be capped at full time rates, will be calculated by using the average of their ordinary hours of work, excluding any periods of leave without pay, for the 12 (twelve) month period immediately before the period of birth leave commences.

111.23 To avoid doubt, an employee's status and all other entitlements remain unaltered by the operation of subclause 111.22.

111.24 Paid birth leave may be taken with full or half pay, or a combination of full and half pay with credits to be deducted on the same basis. The maximum paid period is up to 48 (forty-eight) weeks at half pay.

111.25 The head of service may approve, subject to a medical certificate from a registered medical practitioner, an employee taking paid birth leave in a non-continuous manner, provided any other form of paid leave will not be approved until the employee has used all of the employee's paid birth leave entitlement.

111.26 A period of paid birth leave does not extend the maximum 52 (fifty-two) week period of birth leave available to an eligible employee.

111.27 An employee's period of absence on birth leave between the paid period of birth leave and the maximum 52 (fifty-two) week period of birth leave will be without pay, unless other paid leave entitlements are accessed.

Effect on Other Entitlements

111.28 Birth leave with pay will count as service for all purposes.

111.29 Any period of unpaid birth leave taken by an employee during the period commencing 6 (six) weeks prior to the estimated date of delivery of the child and ending 6 (six) weeks after the actual date of birth of the child will count as service for all purposes.

111.30 Subject to subclause 111.29 any period of unpaid birth leave taken by an employee will not count as service for any purpose but does not break continuity of service.

111.31 Public holidays for which the employee would otherwise have been entitled to payment that fall during periods of absence on birth leave will not be paid as a normal public holiday.

Interaction with Other Leave Entitlements

111.32 An application by an employee for long service leave or annual leave during a period that would otherwise be an unpaid period of birth leave will be granted to the extent of available entitlements.

111.33 Subject to subclause 98.39, an application by an employee for personal leave during a period that would otherwise be an unpaid period of birth leave will be granted subject to the employee providing a certificate from a registered medical practitioner or registered health professional operating within their scope of practice to the extent of available entitlements.

Keep in Touch Arrangements (Birth Leave)

111.34 At any time after 6 (six) weeks from the child's date of birth, an employee may, following an invitation from the head of service, agree to attend the workplace on up to ten separate occasions of up to one day each so as to keep in touch with developments in the workplace (for meetings and training etc.).

111.35 The employee will be paid at their ordinary hourly rate of pay for the hours they attend the workplace in accordance with subclause 111.34 during unpaid birth leave. Keep in touch attendance will count as service for all purposes, but does not extend the period of leave and does not end or reduce the entitlement to birth leave.

111.36 For the purpose of subclause 111.34, a medical certificate is not required.

112.SPECIAL BIRTH LEAVE

Purpose

112.1 Special birth leave is available to employees where any of the following apply:

112.1.1 The employee is not fit for work due to a pregnancy related illness.

112.1.2 The pregnancy of the employee ends between 28 (twenty-eight) weeks and 20 (twenty) weeks of the estimated date of delivery, other than by the birth of a living child.

Note: If a pregnancy ends within 20 (twenty) weeks of the expected date of birth of the child the employee may be entitled to paid or unpaid birth leave as per subclause 111.3.

Eligibility

112.2 Special birth leave is available to all employees and eligible casual employees.

Entitlement

112.3 An employee is entitled to a period of unpaid special birth leave for the duration certified by a registered medical practitioner or registered health professional operating within their scope of practice as necessary.

Evidence and Conditions

112.4 The employee must provide the head of service with notice that they are taking special birth leave. The notice must be given as soon as practicable (which may be after the leave has started); and should include the period, or expected period, of the leave.

112.5 An employee must submit an application to the head of service for any period of special birth leave. Having considered the requirements of this clause the head of service will approve an employee's application to access special birth leave.

112.6 An employee who has given notice that special birth leave will be (or is being) taken must provide reasonable evidence of the purpose for taking leave. This evidence may include a medical certificate from a registered medical practitioner or registered health professional operating within their scope of practice as necessary.

Rate of Payment

112.7 Special birth leave is granted without pay.

Effect on Other Entitlements

112.8 Special birth leave does not count as service for any purpose.

112.9 Special birth leave does not break continuity of service.

112.10 Special birth leave accessed due to pregnancy related illness is not deducted from the entitlement for unpaid birth leave accessed after the birth of the child.

Interaction with Other Leave Entitlements

112.11 Special birth leave is in addition to any accrued personal leave entitlement.

112.12 Special birth leave is in addition to compassionate leave.

113.PRIMARY CARE GIVER LEAVE

Purpose

113.1 Primary care giver leave is available to employees to enable them to be absent from duty to do both of the following:

113.1.1 Care for and bond with a newborn child.

113.1.2 Support the protection of the family and children under the Human Rights Act 2004.

Eligibility

113.2 Primary care giver leave is available to employees other than casual employees who are the primary care giver of a newborn child.

113.3 An employee is eligible for primary care giver leave if they have completed at least 12 (twelve) months continuous service, that may include recognised prior service, immediately prior to commencing a period of primary care giver leave.

113.4 An employee who is eligible for paid birth leave, foster and short-term care leave, or adoption, permanent or long-term care leave is not eligible for primary care giver leave.

113.5 An employee who completes the 12 (twelve) months of qualifying service within 18 (eighteen) weeks of becoming the primary care giver for a child is eligible for primary care giver leave

from the date they are eligible for the leave to the end of the first 18 (eighteen) weeks of becoming the primary care giver of the child.

Entitlement

113.6 An eligible employee is entitled to 18 (eighteen) weeks of paid primary care giver leave in relation to each birth and this entitlement is in addition to the Federal paid parental leave scheme. To avoid doubt, the entitlement under this clause does not increase in cases of multiple births, adoptions or care and protection orders that apply to more than one child.

113.7 Primary care giver leave is non-cumulative.

113.8 An employee is entitled to return to work in accordance with the provisions in the National Employment Standards of the FW Act.

Evidence and Conditions

113.9 An employee should discuss with their manager/supervisor, as soon practicable, their intention to be absent on primary care giver leave.

113.10 An employee must make an application to the head of service to access their primary care giver leave.

113.11 The employee must provide the head of service with appropriate evidence concerning the reasons for and circumstances under which the primary care giver leave application is made, which may include any of the following:

113.11.1 A certificate from a registered medical practitioner or registered health professional operating within their scope of practice relating to the estimated date of delivery of a child.

113.11.2 A birth certificate.

113.12 In all cases details of leave being taken by other persons who may be considered a primary care giver in relation to the same child (or children in the case of multiple births) must be provided.

113.13 Before granting primary care giver leave, the head of service must be satisfied that the employee demonstrates that they are the primary care giver.

113.14 For the purposes of this clause a newborn is considered to be a baby of up to 26 (twenty-six) weeks old. In extenuating circumstances, the head of service may approve primary care giver leave when a newborn is more than 26 (twenty-six) weeks old.

113.15 For the purposes of subclause 113.14, the primary care giver is entitled to access up to 18 weeks primary care givers leave where the leave has been commenced before the baby was 26 (twenty-six) weeks old, subject to subclause 113.16.

113.16 Having considered the requirements of this clause the head of service will approve an employee's application to access primary care giver leave.

113.17 The 18 (eighteen) weeks available as paid primary care giver leave includes any paid bonding leave (including the personal leave component of the bonding leave entitlement) previously taken by that employee in relation to the birth. For clarity, the total combined entitlement of paid bonding leave (including the personal leave component of the bonding leave entitlement) and paid primary care givers leave available is 18 (eighteen) weeks in relation to the birth.

113.18 Primary care giver leave may be taken in any combination with birth leave provided that the person who has given birth and entitled to birth leave, and the other employee eligible for primary care giver leave do not take these forms of paid leave concurrently.

113.19 Subclause 113.18 does not apply where the person giving birth is an ACTPS employee entitled to surrogacy leave in accordance with clause 124.

Rate of Payment

113.20 Primary care giver leave will be granted with pay.

113.21 The rate of payment to be paid to the employee during a paid period of primary care giver leave is the same rate as would be paid if the employee was granted personal leave.

113.22 Despite subclause 113.21 where an employee varies their ordinary hours of work, either from part time to full time, from part time to different part time, or from full time to part time, during the 12 (twelve) month period directly preceding birth leave, the rate of payment for the paid component of their birth leave, which will be capped at full time rates, will be calculated by using the average of their ordinary hours of work, excluding any periods of leave without pay, for the 12 (twelve) month period immediately before the period of birth leave commenced.

113.23 To avoid doubt, an employee's status and all other entitlements remain unaltered by the operation of subclause 113.22.

113.24 Primary care giver leave may be granted with full or half pay, or a combination of full or half pay, with credits to be deducted on the same basis. The maximum paid period is up to 36 (thirty-six) weeks at half pay.

113.25 The head of service may approve an employee taking primary care giver leave in a non-continuous manner, provided any other form of paid leave will not be approved until the employee has used all of the employee's paid primary care giver leave entitlement within 72 (seventy-two) weeks of the birth of the child.

Effect on Other Entitlements

113.26 Primary care giver leave will count as service for all purposes.

113.27 Public holidays for which the employee would otherwise have been entitled to payment that fall during periods of absence on primary caregiver leave will not be paid as a normal public holiday.

Interaction with Other Leave Types

113.28 Primary care giver leave does not extend the maximum period of unpaid parental leave available to an employee. To avoid any doubt, primary care giver leave is not extended by public holidays which fall during periods of primary care giver leave.

Keep in Touch Arrangements (Primary Care Giver Leave)

113.29 An employee on primary care giver leave may, following an invitation from the head of service, agree to attend the workplace on up to 10 (ten) separate occasions of up to 1 (one) day each so as to keep in touch with developments in the workplace (for meetings and training etc.).

113.30 The employee will be paid at their ordinary hourly rate of pay for the hours they attend work in accordance with subclause 113.29 during unpaid primary care giver leave. Keep in touch attendance will count as service for all purposes, but does not extend the period of leave and does not end or reduce the entitlement to primary care giver leave.

114.PARENTAL LEAVE

Purpose

114.1 Parental leave without pay is in addition to the provisions available in birth and primary care leave and adoption, permanent or long term caregiver leave and is available to employees to enable them to be absent from duty following the birth or adoption of a child or the commencement of permanent caring arrangement for a child.

Eligibility

114.2 Parental leave is available to an employee or an eligible casual employee who is the primary care giver of a child following the birth or adoption or commencement of permanent caring arrangement for a child.

Entitlement

114.3 An employee is entitled to up to 2 (two) years of parental leave following the child's birth, adoption or commencement of a permanent or long term caring arrangement, less any period of birth leave, primary care giver leave or adoption, permanent or long term care leave which the employee has taken in relation to the same child.

114.4 To avoid doubt, the entitlement under this clause does not increase in cases of multiple births, adoptions or permanent caring arrangements that apply to more than one child at any one time.

114.5 At the end of this time the employee is entitled to return to work in accordance with the provisions in the National Employment Standards of the FW Act.

114.6 An employee may apply for up to 52 additional weeks of parental leave for up to 2 (two) further occasions of birth. The leave must be granted if all the following apply:

114.6.1 The parental leave is taken within 3 years following the child's birth, adoption or commencement of a permanent or long term caring arrangement.

114.6.2 That the employee agrees, where necessary, to become unattached.

114.6.3 The parental leave is taken in periods of one week or more.

Evidence and Conditions

114.7 An employee should discuss with their manager/supervisor, as soon as practicable, their intention to be absent on parental leave.

114.8 An employee must make an application to the head of service to access their unpaid parental leave entitlement.

114.9 The head of service must approve an employee's application to access parental leave if satisfied the employee has met the requirements under this clause.

114.10 The employee must provide the head of service with appropriate evidence concerning the reasons for and circumstances under which the unpaid parental leave application is made, which may include any of the following:

114.10.1 A birth certificate.

114.10.2 Documents from an adoption authority concerning the adoption of a child.

114.10.3 Documents relating to a permanent caring arrangement.

114.11 The head of service will not grant parental leave if the employee's domestic partner is on parental leave and is an employee of the ACTPS.

Rate of Payment

114.12 Parental leave will be granted without pay.

Effect on Other Entitlements

114.13 Parental leave does not count as service for any purpose.

114.14 Parental leave does not break continuity of service.

114.15 Public holidays for which the employee would otherwise have been entitled to payment that fall during periods of absence on parental leave will not be paid as a normal public holiday.

Interaction with Other Leave Types

114.16 An employee on parental leave may access annual and long service leave on full or half pay to the extent of available entitlements.

114.17 An application by an employee for personal leave during a period that would otherwise be a period of parental leave will be granted subject to the employee providing a certificate from a registered medical practitioner or registered health professional operating within their scope of practice, in accordance with subclause 98.37.

Keep in Touch Arrangements (Parental Leave)

114.18 An employee may, following an invitation from the head of service, agree to attend the workplace on up to 10 (ten) separate occasions of up to 1 (one) day each so as to keep in touch with developments in the workplace (for meetings and training etc.), less any keep in touch time approved during birth or primary caregiver leave as per subclauses 111.34 or 113.29.

114.19 The employee will be paid at their ordinary hourly rate of pay for the hours that they attend the workplace in accordance with subclause 114.19 for this time. Keep in touch attendance will count as service for all purposes, but does not extend the period of leave and does not end or reduce the entitlement to parental leave.

115.BONDING LEAVE

Purpose

115.1 Bonding leave is available to employees to enable them to be absent from duty to do any of the following:

115.1.1 Bond with their newborn, adopted child, or a child for whom the employee's domestic partner has commenced a primary care giving role under a permanent caring arrangement.

115.1.2 Support the protection of the family and children under the Human Rights Act 2004.

Eligibility

115.2 Bonding leave is available to employees other than casual employees at the time of the child's birth, adoption, or the commencement of a permanent caring arrangement when the employee is not the primary care giver to the child.

115.3 An employee who is eligible for paid birth leave, adoption, or permanent or long term care leave or primary care giver leave is not entitled to bonding leave. If, however, bonding leave has been taken by the employee, and the employee later becomes entitled to primary care giver's leave, paid bonding leave and paid personal leave taken in accordance with this clause will reduce available primary care giver leave.

Entitlement

115.4 Under this clause, an employee is entitled to be absent on paid leave for a maximum of 5(five) weeks (25 working days) at, or near, the time of the birth, adoption or commencement of the permanent or long term caring arrangement. The maximum absence may be increased by a further 1 week days of personal leave for bonding purposes as per subclause 98.44.

115.5 In accordance with the NES, an eligible employee is entitled to be absent for up to a maximum of 8 (eight) weeks of concurrent unpaid bonding leave in the first 12 (twelve) months following the birth or adoption or commencement of another permanent or long term caring arrangement for a child, subject to a minimum period of 2 (two) weeks at a time unless a shorter period is agreed by the head of service.

115.6 The entitlement under subclause 115.5 will be reduced by the extent of the entitlement accessed by an employee under subclause 115.4.

115.7 To avoid doubt, the entitlement under this clause does not increase in cases of multiple births, adoptions or permanent caring arrangements that apply to more than one child.

115.8 Bonding leave is non-cumulative.

115.9 Paid bonding leave must be taken within 14 (fourteen) weeks from the date of birth, adoption or commencement of the permanent or long term caring arrangements, unless there are exceptional circumstances and the head of service agrees to a longer period.

115.10 The 1 week of personal leave accessed as per subclause 98.44 may be taken at any time up to 14 (fourteen) weeks from the date of the birth, adoption or commencement of the permanent or long term caring arrangement.

115.11 Where an employee's domestic partner is also an ACTPS employee this leave may be taken concurrently with the domestic partner receiving birth leave, adoption, permanent or long term care leave or primary caregiver leave.

Evidence and Conditions

115.12 An employee should discuss with their manager/supervisor, as soon as practicable, their intention to be absent on bonding leave.

115.13 Bonding leave will be approved subject only to the head of service being satisfied that the eligibility requirements have been met; however an employee must submit an application to the head of service for any period of bonding leave.

115.14 The employee must provide the head of service with appropriate evidence concerning the circumstances under which the bonding leave application is made, which may include any of the following:

115.14.1 A medical certificate relating to the estimated date of delivery of a child.

115.14.2 A birth certificate.

115.14.3 Documents from an adoption authority concerning the proposed adoption of a child.

115.14.4 Documents relating to a permanent caring arrangement until the child reaches the age of 18 (eighteen).

115.15 Unless the head of service determines that exceptional circumstances apply bonding leave will not be approved to care for any of the following:

115.15.1 A baby over the age of 14 (fourteen) weeks (not applicable in cases of adoption, permanent or long term caring arrangements).

115.15.2 An adopted adult or adult who is the subject of a permanent caring arrangement over 18 (eighteen) years old on the day of placement.

Rate of Payment

115.16 Bonding leave will be granted with or without pay.

115.17 The rate of payment to be paid to the employee during a period of paid bonding leave is the same rate as would be paid if the employee was granted personal leave.

115.18 Bonding leave may be granted with full or half pay, or a combination of full and half pay, with credits to be deducted on the same basis. The maximum paid period is up to 10 weeks at half pay.

Effect on Other Entitlements

115.19 Paid bonding leave will count as service for all purposes, and unpaid bonding leave will not count as service for any purpose but will not break continuity of service.

115.20 Public holidays for which the employee is entitled to payment that fall during periods of absence on paid bonding leave will be paid as a normal public holiday and will not extend the maximum period of bonding leave.

116.GRANDPARENTAL LEAVE

Purpose

116.1 Grandparental leave is available to employees to enable them to be absent from duty to undertake a primary care giving role to their grandchild during normal business hours.

Eligibility

116.2 Grandparental leave is available to employees other than casual employees and employees on probation.

116.3 To be eligible for grandparental leave, the baby or child which the employee is providing care for must be:

116.3.1 their grandchild; or

116.3.2 their step-grandchild; or

116.3.3 their adopted grandchild; or

116.3.4 a child for whom the employee's child has parental or caring responsibility authorised under a law of a State or Territory.

Entitlement

116.4 An eligible employee may be granted up to 52 (fifty two) weeks of grandparental leave, in relation to each grandchild under care. This leave may be taken over a period not exceeding 5 (five) years.

116.5 Grandparental leave is available up until the 5th (fifth) birthday of the grandchild for whom the employee is the primary care giver.

116.6 Grandparental leave is non-cumulative.

116.7 The length of a period of absence on grandparental leave must be agreed between the eligible employee and the head of service.

Example 1: A day or part-day on an occasional basis.

Example 2: A regular period of leave each week, fortnight or month.

Example 3: A larger block of leave such as 6 (six) or 12 (twelve) months.

116.8 If an employee is absent on grandparental leave and becomes a grandparent to another grandchild, for whom they are the primary care giver, a new application must be made as per subclause 116.4.

Evidence and Conditions

116.9 An employee should discuss with their manager/supervisor, as soon as practicable, their intention to be absent on grandparental leave.

116.10 An employee must make an application to the head of service to access their grandparental leave entitlement, and must include details of the period, or expected period, of the absence.

116.11 Having considered the requirements of this clause the head of service may approve an employee's application to access grandparental leave. A decision not to approve the leave will be taken in accordance with subclause 97.2.

116.12 The head of service should not approve an application for grandparental leave where an employee has an annual leave balance in excess of 8 (eight) weeks.

116.13 An application for grandparental leave must include evidence in the form of:

116.13.1 a statutory declaration or a medical certificate confirming the birth or the estimated date of delivery of the grandchild; or

116.13.2 the grandchild's adoption certificate or a statutory declaration confirming the adoption of the grandchild; or

116.13.3 a letter or a statutory declaration confirming that there is an authorised care situation.

116.14 If both grandparents are employees of the ACTPS either grandparent may be granted leave but the leave may not be taken concurrently.

Rate of Payment

116.15 Grandparental leave will be granted without pay.

Effect on Other Entitlements

116.16 Employees cannot engage in outside employment during a period of grandparental leave without the prior approval of the head of service.

116.17 Grandparental leave will count as service for all purposes except the accrual of annual leave and personal leave.

116.18 Grandparental leave will not break continuity of service.

116.19 Public holidays for which the employee would otherwise have been entitled to payment that fall during periods of absence on grandparental leave will not be paid as a normal public holiday.

Access to Other Leave Entitlements

116.20 An employee on grandparental leave may access annual leave, purchased leave or long service leave.

116.21 An application by an employee for personal leave during a period that would otherwise be grandparental leave will be granted subject to the employee providing a certificate from a registered medical practitioner or registered health professional who is operating within their scope of practice.

Unattachment

116.22 During an employee's absence on grandparental leave, the head of service may, with the employee's written consent, declare the employee unattached.

117.ADOPTION, PERMANENT OR LONG TERM CARE LEAVE

Purpose

117.1 Adoption, permanent or long term care leave is available to employees to enable them to be absent from duty to do the following:

117.1.1 Care for and bond with an adopted child or a child for whom the employee has a permanent caring responsibility, including kinship arrangements, where the child is under 18 (eighteen) years old.

117.1.2 Support the protection of the family and children under the Human Rights Act 2004 and the Children and Young People Act 2008.

Eligibility

117.2 Paid Adoption, permanent or long term care leave is available to an employee other than a casual employee who is the primary care giver of one of the following:

117.2.1 An adopted child.

117.2.2 A child for whom the employee has a permanent caring responsibility, where the child is under 18 (eighteen) years old.

117.3 An employee providing foster care under a Concurrency Care Foster Care Program described in clause 119 must be treated as having a permanent caring responsibility, and be eligible for adoption, permanent or long term care leave subject to the terms of this clause.

117.4 An employee is not eligible for any further grant of adoption, permanent or long term care leave for a child if both the following apply to the employee in relation to that child:

117.4.1 The employee is granted adoption, permanent or long term care leave in respect of the child being cared for under a Concurrency Care Foster Care Program.

117.4.2 The employee subsequently enters into an adoption, permanent or long term care arrangement for that child.

117.5 An employee who has completed at least 12 months continuous service, including recognised prior service, immediately prior to commencing a period of adoption, permanent or long term care leave is eligible for adoption, permanent or long term care leave.

117.6 An employee who is eligible for paid primary care giver leave is not eligible for adoption, permanent or long term care leave.

117.7 An employee who completes 12 months of continuous service within 18 weeks of becoming the primary care giver for an adopted child or a child for whom the employee has a permanent caring responsibility is eligible for adoption, permanent or long term care leave for the period between completing 12 months of qualifying service and the end of the first 18 weeks of becoming the primary care giver of the child.

Entitlement

117.8 An eligible employee is entitled to 18 (eighteen) weeks of paid leave in relation to each occasion of adoption or commencement of a permanent or long term caring responsibility, less any leave taken in accordance with clause 118 in the same twelve month period in relation to the same child.

117.9 A casual employee is entitled to unpaid pre-adoption leave in accordance with the provisions of the National Employment Standards.

117.10 To avoid doubt, the entitlement under subclause 117.8 does not increase when the adoption, permanent or long term caring responsibility involves more than one child at the time of application.

117.11 Adoption, permanent or long term care leave is non-cumulative.

117.12 An employee is entitled to return to work in accordance with the provisions in the National Employment Standards.

Evidence and Conditions

117.13 An employee should discuss with their manager/supervisor, as soon practicable, their intention to be absent on adoption, permanent or long term care leave.

117.14 An employee must make an application to the head of service to access their adoption, permanent or long term care leave.

117.15 The employee must provide the head of service with appropriate evidence concerning the reasons for and circumstances under which the adoption, permanent or long term care leave application is made, which may include any of the following:

117.15.1 Documents from an adoption authority concerning the adoption.

117.15.2 An authorisation as a kinship carer made under the Children and Young Peoples Act 2008.

117.15.3 Documents confirming that an arrangement consistent with the terms set out in clause 119 applies.

117.16 In all cases details of leave being taken by other persons in relation to the same child must be provided.

117.17 Leave under this clause will not be approved for employees in circumstances where the child has lived continuously with the employee for a period of 6 (six) months or more at the date of placement or in cases where the child is a child of the employee or employee's spouse or partner.

117.18 Before granting leave the head of service must be satisfied that the employee is the primary care giver.

117.19 Adoption, permanent or long term care leave may commence up to one week prior to the date the employee assumes permanent caring responsibility for the child but not later than the formal commencement of the adoption, permanent or long term care responsibility.

117.20 In all cases, the child must be under 18 (eighteen) years old on the date the employee assumes permanent responsibility for the child for leave to be approved.

Rate of Payment

117.21 Adoption, permanent or long term care leave will be granted with pay, except for unpaid pre-adoption leave for casual employees.

117.22 The rate of payment to be paid to the employee during a paid period of adoption, permanent or long term care leave is the same rate as would be paid if the employee was granted personal leave.

117.23 Despite subclause 117.22, where an employee varies their ordinary hours of work, either from part-time to full-time, from part-time to different part-time, or from full-time to part-time, during the twelve month period directly preceding adoption, permanent or long term care leave, the rate of payment for the paid component of their adoption, permanent or long term care leave will be calculated by using the average of their ordinary hours of work, excluding any periods of leave without pay, for the twelve month period immediately before the period of adoption, permanent or long term care leave commences.

117.24 To avoid doubt, an employee's status and all other entitlements remain unaltered by the operation of subclause 117.23.

117.25 The head of service may approve an employee taking adoption, permanent or long term care leave in a non-continuous manner, provided any other form of paid leave will not be approved until the employee has used all of the employee's paid adoption, permanent or long term care leave entitlement within 52 weeks of the commencement of the adoption, permanent or long term caring responsibility.

117.26 Leave may be granted with full or half pay, or a combination of full or half pay, with credits to be deducted on the same basis. The maximum paid period is up to 36 (thirty-six) weeks at half pay.

Effect on Other Entitlements

117.27 Paid adoption, permanent or long term care leave will count as service for all purposes.

117.28 Public holidays for which the employee would otherwise have been entitled to payment that fall during periods of absence on adoption, permanent or long term care leave will not be paid as a normal public holiday.

Interaction with Other Leave Types

117.29 Adoption, permanent or long term care leave does not extend the maximum period of unpaid parental leave available to an employee.

118.FOSTER AND SHORT TERM CARE LEAVE

Purpose

118.1 Foster and Short Term Care leave is available to employees to enable them to be absent from duty to the following:

118.1.1 Care for a child in an emergency or other short term out of home care placement, including kinship arrangements and respite care, that has not been determined to be permanent.

118.1.2 Support the protection of the family and children under the Human Rights Act 2004 and the Children and Young People Act 2008.

Eligibility

118.2 Foster and Short Term Care leave is available to employees other than casual employees who are the primary care giver of a child in an emergency or other out of home care placement that has not been determined as permanent.

118.3 An employee who has completed at least 12 (twelve) months continuous service, including recognised prior service, immediately prior to commencing a period of Foster and Short Term Care leave, is eligible for Foster and Short Term Care leave.

Entitlement

118.4 An eligible employee will be entitled to a period of paid leave proportionate to the duration of the caring arrangement per application, up to a maximum of 10 (ten) working days/shifts per calendar year.

118.5 Where the duration of the existing arrangement is subsequently altered, for example, a change from an emergency placement to a short term placement, the employee may, subject to further application and approval, have their leave extended up to a maximum period of 10 (ten) working days/shifts.

118.6 An eligible employee will be entitled to paid leave as per subclause 118.4 to undertake accreditation towards an enduring parental authority to care for the child to whom the current short term caring arrangement applies.

118.7 The entitlement under subclause 118.4 does not increase when the short-term caring arrangement involves more than one child at the time of application.

118.8 Foster and Short Term Care leave is non-cumulative.

118.9 Where an employee exhausts their paid leave entitlement under this clause the employee may seek approval for further unpaid leave.

Evidence and Conditions

118.10 An employee should discuss with their manager/supervisor, as soon practicable, their intention to be absent on Foster and Short Term Care leave.

118.11 An employee must make an application, as soon as practicable, to the head of service to access their Foster and Short Term Care leave.

118.12 The employee must provide the head of service with appropriate evidence concerning the reasons for and circumstances under which each Foster and Short Term Care leave application is made, which may include:

118.12.1 documents relating to current and previous court orders granting responsibility for a foster child; or

118.12.2 documents from a registered health professional or registered medical professional.

118.13 Having considered the requirements of this clause the head of service may approve an employee's application to access foster and short term care leave. A decision not to approve the leave must be taken in accordance with subclause 97.2.

Rate of Payment

118.14 Foster and Short Term Care leave will be granted with pay or without pay.

118.15 The rate of payment during absence on a period of paid Foster and Short Term Care leave is the same rate as would be paid if the employee was granted personal leave.

118.16 The approved leave period may be taken at full pay in a single block or as single or part days.

Effect on Other Entitlements

118.17 Paid Foster and Short Term Care leave will count as service for all purposes and unpaid Foster and Short Term Care leave will not count as service for any purposes but will not break continuity of service.

118.18 Public holidays for which the employee is entitled to payment that fall during periods of absence on paid Foster and Short Term Care leave will be paid as a normal public holiday and will not be considered to be Foster and Short Term Care leave.

Interaction with Other Leave Types

118.19 An eligible employee will be required to have exhausted their entitlement under this leave clause before accessing their personal leave credit to care for a child, for whom they are responsible under a short term caring arrangement, which is ill or injured.

119.CONCURRENCY CARE ENTITLEMENT TO ADOPTION OF PERMANENT CARE LEAVE

119.1 For the purpose of subclause 119.2, a Community Organisation is an organisation involved with out of home care and adoption of children and young people such as the following:

119.1.1 a member of the ACT Together consortium;

119.1.2 Marymead; or

119.1.3 similar organisations based outside the ACT.

119.2 For the purposes of subclause 119.3, a Concurrency Care Foster Care Program involves a Community Organisation placing a child with foster carers while restoration to the birth family is explored. If restoration is not achieved, the foster carers have an opportunity to care for the child permanently. The Primary Care Giver in such an arrangement is required by the Community Organisation to take a minimum of 12 (twelve) month leave to stabilise the placement of the child.

119.3 Notwithstanding clause 118, an employee who provides foster care under a Concurrency Care Foster Care Program, in accordance with arrangements approved by the Community Services Directorate, will be entitled to apply for Adoption or Permanent Care Leave under clause 117, as if they had a permanent caring responsibility. Such employees will not be entitled to leave under clause 118.

120.FAMILY, DOMESTIC OR SEXUAL VIOLENCE LEAVE

Purpose

120.1 Leave under this clause is available to employees to enable them to deal with the impact caused by family, domestic or sexual violence. The ACTPS is committed to assisting employees experiencing family, domestic or sexual violence to remain in work, maintain their physical and financial security and access relevant services.

Eligibility

120.2 Family, domestic or sexual violence leave is available to all employees:

120.2.1 Experiencing family, domestic or sexual violence; or

120.2.2 supporting an immediate family member experiencing family, domestic or sexual violence.

Entitlement

120.3 An employee experiencing family, domestic or sexual violence has access up to a maximum of 20 days or shifts per calendar year of paid leave. Family, domestic or sexual violence leave is non-cumulative.

120.4 Family, domestic or sexual violence leave is in addition to other leave entitlements and is not to be used as a substitute for personal leave. However, where supporting evidence is not immediately available the head or service must, grant paid leave under clause 99 of this Agreement (Personal Leave in Special, Extraordinary or Unforeseen Circumstances), subject to available credit. If the employee subsequently produces supporting evidence, the personal leave will be re-credited and the leave taken will be converted to family, domestic or sexual violence leave.

120.5 Family, domestic or sexual violence leave is to be used for, but not limited to, the following actions required as a consequence of family, domestic or sexual violence occurring:

120.5.1 Attendance at appropriate medical appointments for referral to other appropriate counselling or support services.

120.5.2 Obtaining legal advice.

120.5.3 Attending counselling appointments.

120.5.4 Seeking assistance from other relevant support services.

120.5.5 Attending court proceedings.

120.5.6 Attending prosecution appointments.

120.5.7 Attending police appointments.

120.5.8 Attending to Protection Order matters and Domestic Violence Order matters however termed.

120.5.9 Attending to issues arising through urgent property damage.

120.5.10 Seeking veterinary assistance for pets injured.

120.5.11 Accessing alternative accommodation.

120.5.12 Accessing alternative childcare or schooling for children.

120.5.13 Any other reason relating to recovering from the effects of experiencing family, domestic or sexual violence where personal leave is not applicable.

Note: An employee, accessing leave under this provision, may require additional time for travel and recovery following attendance at appointments, proceedings etc.

120.6 Family, domestic or sexual violence leave may be taken as consecutive or single days, or as part days.

120.7 For confidentiality and privacy reasons family, domestic or sexual violence leave will be attributed as coming under "where leave cannot be granted under any other provision" which is included and identified within "Other Leave Types" in Schedule 12 of this Agreement.

Evidence and Conditions

120.8 Employees wishing to access family, domestic or sexual violence leave should discuss making an application with their manager or supervisor or an appropriate HR Manager as soon as reasonably practical.

120.9 As a general rule, a leave application should be submitted by an employee for approval by the head of service before the commencement of the leave. However, retrospective applications may be approved provided that appropriate evidence is provided as soon as reasonably practicable upon the employee's return to the workplace.

120.10 Evidence of the occurrence of family, domestic or sexual violence is required to access leave for family, domestic or sexual violence purposes.

120.11 Evidence may include any of the following:

120.11.1 A document issued by the Police or a court.

120.11.2 A written referral, issued by a registered medical practitioner or registered nurse, to a counsellor trained in providing support in family, domestic or sexual violence situations.

120.11.3 A document issued by a counsellor who is trained in providing support to people experiencing the effects of family, domestic or sexual violence.

120.11.4 Written confirmation from an Employee Assistance Program provider or from a family, domestic or sexual violence support service that the employee is experiencing family, domestic or sexual violence issues.

120.12 Managers are to keep all information concerning the leave application strictly confidential. This includes, after sighting any supporting documentation, returning that documentation to the employee.

120.13 Having considered the requirements of this clause the head of service may approve an employee's application to access family, domestic or sexual violence leave. A decision not to approve the leave must be taken in accordance with subclause 97.2.

Rate of Payment

120.14 Family, domestic or sexual violence leave is granted with pay.

120.15 For an employee other than a casual employee, the rate of payment for family, domestic or sexual violence leave is the employee's full rate of pay, worked out as if the employee had not taken the period of leave.

120.16 For a casual employee, the rate of payment for family, domestic or sexual violence leave is the employee's full rate of pay, worked out as if the employee had worked the hours in the period for which the employee was rostered or expected to be rostered.

120.17 Family, domestic or sexual violence leave may be granted at half pay where there are extenuating circumstances.

Effect on Other Entitlements

120.18 Leave with pay for family, domestic or sexual violence purposes counts as service for all purposes.

Interaction with Other Leave Types

120.19 Where family, domestic or sexual violence leave credits have been exhausted, the head of service may grant an employee leave without pay or other forms of paid leave, such as annual leave or long service leave.

120.20 Employees should utilise personal leave for an illness or injury, or to seek treatment for an illness or injury, caused by family, domestic or sexual violence.

120.21 Leave entitlements under clause 99 of this Agreement (Personal Leave in Special, Extraordinary or Unforeseen Circumstances) may be used by an employee who is seeking leave to support a person who is experiencing family, domestic or sexual violence.

Employee Assistance

120.22 Reasonable adjustments must be facilitated to ensure the employee's individual safety in the workplace including different work locations, removal or change of phone listing, changes to their work email address and other practicable workplace adjustments.

121.OTHER LEAVE

Purpose

121.1 Other leave is available to employees to enable them to be absent from duty for a variety of purposes as set out in Schedule 12.

121.2 Other leave may be granted in the interests of:

121.2.1 the ACTPS, a state, a territory or the Commonwealth; or

121.2.2 the community in general; or

121.2.3 the employee.

Note: Separate provisions apply for community service leave which includes jury service, voluntary emergency management and voluntary community service.

Eligibility

121.3 An employee who meets the eligibility requirements specified in Schedule 12 is eligible to apply for that form of other leave.

Entitlement

121.4 An employee may be granted other leave to the maximum period set out in Schedule 12.

Evidence and Conditions

121.5 An employee should discuss with their manager/supervisor, as soon as practicable, their intention to be absent on a form of other leave, including the reasons for the absence and the period, or expected period, of the absence.

121.6 An employee must make an application to the head of service to access a form of other leave.

121.7 Having considered the requirements of this clause the head of service may approve an employee's application to access a form of other leave. A decision not to approve the leave must be made in accordance with subclause 97.2.

121.8 The employee must, if requested by the head of service, provide sufficient documentary evidence supporting the reason for the absence.

121.9 When considering requests for other leave, the head of service will take into account:

121.9.1 the employee's circumstances;

121.9.2 community norms and obligations;

121.9.3 the operational requirements of the workplace;

121.9.4 other available leave options;

121.9.5 any conditions on the entitlement as defined in Schedule 12.

Rate of Payment

121.10 Other leave may be granted with or without pay in accordance with Schedule 12.

Effect on Other Entitlements

121.11 A period of other leave will count as service in accordance with Schedule 12.

121.12 Public holidays for which the employee is entitled to payment that fall during periods of absence on other paid leave will be paid as a normal public holiday and will not reduce an entitlement of the employee to other leave under Schedule 12.

Interaction with Other Leave Entitlements

121.13 Leave will not be granted under this provision if another form of leave is more appropriate.

Unattachment

121.14 Where the leave is without pay for a period of more than 12 (twelve) months the head of service may, with the employee's written consent, declare the employee unattached.

Leave entitlements provided for elsewhere

121.15 In addition to the leave entitlements available within Section N, leave entitlements are provided throughout this Agreement and the PSM Standards, including:

Schedule 12 – Other Leave	1. Attend Aboriginal or Torres Strait Islander Ceremonies 2. Attend Aboriginal and Torres Strait Islander meetings 3. Attend NAIDOC week activities 4. Religious purposes 5. Defence Reserve 6. Operational Service Personal Leave 7. Returned soldiers for medical purposes 8. Accompany a domestic partner on a posting 9. Engage in employment in the interests of defence or public safety 10. Attend as a witness 11. Attend proceedings at the Fair Work Commission 12. Donate an organ 13. Donate Blood 14. Hold a full-time office in a staff organisation 15. Local government purposes 16. Campaign for election 17. Attend sporting events as an accredited competitor or official 18. Cope with a disaster 19. Engage in employment associated with compensation 20. Engage in employment in the interests of the ACTPS 21. Take leave where leave cannot be granted under any other provision
Clause 158	Attendance at Industrial Relations Courses and Seminars

Clause 185	Leave and Expenses to Seek Employment
Public Sector Management Standards	Study assistance

122.LONG SERVICE LEAVE

Definitions

122.1 The following definitions apply to long service leave:

122.1.1 **Current rate of salary** means the salary an employee received on the relevant day.

122.1.2 **Eligible employment** means:

122.1.2.1 continuous employment by the ACTPS; and

122.1.2.2 continuous recognised prior employment; and

122.1.2.3 a period of leave without pay to count as service (other than personal leave without pay in excess of 78 weeks and leave in relation to defence employment being employment in the Reserve Forces or of the Citizen Forces either on a continuous full-time basis or for a period fixed in accordance with the Defence Act 1903, or equivalent legislation as in force at the relevant time, or national service; and

122.1.3 Eligible employment excludes:

122.1.3.1 employment remunerated by fees, allowances or commission, honorarium or equivalent; and

122.1.3.2 appointment or engagement for the sole purpose of overseas employment; and

122.1.3.3 unauthorised absence.

122.1.4 **Prescribed average number of hours** in respect of part-time employment is the greater of:

122.1.4.1 the employee's average number of hours of employment per week:

122.1.4.2 during the 12 months of eligible part-time employment ending on the relevant day set out above; or

122.1.4.3 during the periods aggregating 12 months the employee was last employed on part-time hours before the relevant day set out above; or

122.1.4.4 if the employee has less than 12 months of eligible part-time employment, during the period or periods when the employee has been employed on part-time hours; or

122.1.4.5 the employee's average number of hours of employment per week during the entire period of their eligible employment.

122.1.5 **Relevant day** means:

122.1.5.1 In relation to an employee who has been granted long service leave, the day immediately before the date that leave commences; and

122.1.5.2 in relation to an employee who receives a payment in lieu of long service leave:

M.122.1.5.2.1 the day immediately before the date they cease to be an employee; or

M.122.1.5.2.2 the nominated date to cash out accrued long service leave credit.

122.1.6 **Relevant rate per hour** means the rate per hour that salary would be payable to the employee on the relevant day.

Purpose

122.2 Long service leave is available to employees to enable them to be absent from duty in recognition of their length of service in the public sector.

Note: Historically and in other jurisdictions long service leave may have been, or be, known by other names, including long leave, furlough or extended leave.

Eligibility

122.3 Long service leave is available to all employees including casual employees.

122.4 This clause does not apply to a person who is:

122.4.1 seconded to the ACTPS from the Commonwealth, State or Territory government; or

122.4.2 appointed or engaged for the sole purpose of employment outside Australia (overseas employment).

122.5 The eligibility requirements and entitlements for long service leave under the PSM Standards apply, subject to the provisions of this clause.

122.6 Chief Minister Treasury and Economic Development (CMTEDD) must consult with the unions and seek union agreement in relation to changes to long service leave entitlements provided under the PSM Standards.

Entitlement

122.7 Long service leave is measured in months.

122.8 Employees accrue long service leave at the rate of 3 months for each ten years of completed eligible employment, or an equivalent aggregate period of employment for casual employees.

122.9 For employees who take long service leave and return to duty following completion of their long service leave, or for employees who take payment in lieu of long service leave, their long service leave credit is calculated based on their aggregate completed years of eligible employment (e.g. the period 1 February 2009 to 31 July 2021 equates to 12 years for long service leave calculation).

122.10 For employees who will cease employment with the ACTPS following completion of their long service leave, or payment in lieu of long service leave, their long service leave credit is calculated based on their aggregate completed years and months of eligible employment (e.g. the period 1 February 2009 to 31 July 2021 equates to 12 years and 6 months for long service leave calculation).

122.11 Long service leave is cumulative and there is no limit on the long service leave balance an employee may accrue.

122.12 Employees accrue separate full-time and part-time long service leave credits according to the employee's ordinary hours of work and the following formula:

Full-time credit formula	Part-time credit formula
Full-time credit = (3a/10 - b)	Part-time credit = (3c/10 - d)
where: a = the aggregate number of years of eligible full-time employment b = the aggregate number of months of long service leave previously paid to the employee in relation to the employee's full-time employment at any time during their eligible employment.	where: c = the aggregate number of years of eligible part-time employment d = the aggregate number of months of long service leave previously paid to the employee in relation to the employee's part-time employment at any time during their eligible employment.

122.13 For calculating an employee's long service leave credit:

122.13.1 For permanent and temporary employees, a period of leave without pay of one day or more that does not count as service does not count towards long service accrual, but does not break a period of employment for the purpose of determining an employee's eligibility for long service leave.

122.13.2 Where an employee has a break in employment, or a break between other eligible employment and ACTPS employment, of longer than 12 months the prior employment will not be counted as employment that accrues long service leave.

122.13.3 On commencement, if during a period of eligible employment an employee received a payment in lieu of long service leave, or an equivalent type of leave, in the ACTPS or another jurisdiction, the employee is taken to have been granted a period of long service leave equal to the period of long service leave that payment was made for.

Evidence and conditions

122.14 An employee should discuss with the head of service as soon as practicable their intention to be absent on long service leave.

122.15 An employee or their legal representative must make an application to the head of service to access their long service leave entitlement.

122.16 Having considered the requirements of this section the head of service may approve an employee's application to access long service leave, or payment in lieu of long service leave, to the extent of that employee's pro-rata long service leave credits after an aggregated seven years of completed eligible employment.

Note: After seven years eligible employment the employee will have accrued 2.1 months of long service leave credit (i.e. 3 x 7/10).

122.17 The minimum period of long service leave an employee may request is one day.

122.18 If the head of service does not approve an application by an employee for long service leave because of operational requirements the head of service must consult with the employee to determine a mutually convenient alternative time (or times) for the employee to take the leave.

Payment in Lieu

122.19 To encourage the flexible use of long service leave, an employee may, in writing, request the approval of the head of service for payment in lieu (cash out) of long service leave.

122.20 The minimum period an employee may request a payment in lieu of long service leave is seven days.

122.21 The head of service may approve the partial or full payment in lieu of an employee's accrued long service leave credit on a relevant day, nominated by the employee in their application. The payment in lieu of long service leave will be based on the rate of pay the employee would have received had the employee taken the leave from the relevant day.

122.22 Employees will receive payment on separation of any pro-rata long service leave entitlements after an aggregated 7 years of completed eligible employment, at their full rate of pay as if they had taken their entire long service leave credit on the day their employment ends.

122.23 Where an employee whose period of eligible employment is less than seven years but not less than one year ceases to be an employee:

122.23.1 otherwise than because of the employee's death, on, or after, the employee attaining the minimum retiring age; or

122.23.2 because of the employee's redundancy; or

122.23.3 satisfies the head of service that the employee so ceasing is due to ill health of such a nature as to justify the employee so ceasing

the head of service will authorise payment to the employee under this subclause of an amount equal to the salary the employee would have received had they taken long service leave on the day their employment ends.

122.24 If an employee whose period of employment is not less than one year dies, the head of service may authorise payment of an amount equal to the amount that would have been payable to the employee if the employee had, on the day the employee died, ceased to be an employee otherwise than because of death, on or after, the employee attaining the minimum retiring age.

122.25 A payment or pro rata payment in lieu of long service leave is paid:

122.25.1 if the officer was employed in the same capacities on the relevant day and the day immediately before the relevant day – at the officer's full rate of pay on the relevant day; or

122.25.2 if the officer is employed in different capacities on the relevant day and on the day immediately before the relevant day – at the officer's full rate of pay on the day immediately before the relevant day.

Rate of Payment

122.26 Long service leave will be paid at:

Employment	Rate of Payment
Where an employee's accrued long service leave includes eligible full-time employment the payment in relation to full-time long service leave credit will be calculated.	At the employee's current rate of salary or relevant rate per week on the relevant day.
Where an employee's accrued long service leave includes eligible part-time employment with no change in ordinary hours the payment in relation to part-time long service leave credit will be calculated.	At the employee's current rate of salary or relevant rate per week on the relevant day.
Where an employee's accrued long service leave includes periods of part-time employment of varying weekly hours the payment in relation to any part-time long service leave credit will be calculated.	At the employee's relevant rate per hour for that part of the long service leave multiplied by the prescribed average number of hours. (PSMS 266(6) – Category A) At the lower of: (PSMS 266(7) – Category B) (a) the employee's current rate of salary per week in relation to that part of leave; or (b) calculated as follows – (a x b)/c where: a = the employee's current rate of salary per week in relation to that part of the leave b = the prescribed average number of hours of the employee's employment c = the employee's number of hours of employment per week the employee worked on the relevant day

122.27 For periods of seven consecutive days or more, long service leave may be taken on double, full or half pay when approved by the head of service and subject to operational requirements, with credits to be deducted on the same basis.

122.28 Employees may be granted long service leave in blocks of less than seven days with the approval of the head of service. Each day taken will be deducted at the rate of 1.4 and this can be taken on double, full or half pay.

122.29 Despite subclause 122.28, where an employee requests 6 consecutive days of long service, 7 days will be deducted from the employee's long service leave balance.

122.30 If the employee is on higher duties at the time of taking, or cashing out, long service leave, payment for the leave at the higher duties rate will only be approved if the higher duties would have continued for the entire period of the leave taken, or the entire period of the leave cashed out.

122.31 Payment in lieu of long service leave if an employee's employment with the ACTPS ceases will include an amount in respect of a higher duties allowance, if:

122.31.1 the officer has performed the duties of an office with a higher classification than their substantive office for a continuous period of 12 months or ending on the relevant day; or

122.31.2 immediately before the person ceased to be an officer, the officer had performed the duties of two or more offices with a higher classification than their substantive office for periods that were continuous with one another aggregating 12 months or more.

122.32 Payment in lieu of long service leave which includes an amount in respect of higher duties allowance is paid at the lowest rate at which higher duties allowance was paid to the officer during that period of higher duties.

122.33 Salary for long service leave includes allowances payable to the employee during long service leave in accordance with Schedule 11:

122.33.1 for the supply and maintenance by the employee of tools and equipment ordinarily required by them to perform the duties of their work.

122.34 Salary for long service leave does not include:

122.34.1 shift penalty payments; or

122.34.2 overtime payments; or

122.34.3 payments in the nature of an on-call or restriction allowance.

Effect on other entitlements

122.35 Long service leave counts as service for all purposes.

122.36 When applying for long service leave an employee must seek approval of the head of service if they propose to engage in outside employment during the leave.

Access to Other Entitlements

122.37 Public holidays, Christmas Shutdown, weekends and other relevant days an employee is entitled to be absent from duty under clause 105 that fall during periods of absence on long service leave are deducted from the employee's long service leave balance.

122.38 An employee who is ill or injured or cares for a member of the employee's immediate family or household who is ill or injured, for one day or more while on long service leave and who produces a certificate from a registered health professional who is operating within their scope of practice may apply for personal leave.

122.39 If personal leave is granted to the employee, long service leave will be re-credited for the period of personal leave granted.

122.40 An employee may apply for and be granted long service leave during a period they would be eligible to be granted:

122.40.1 unpaid birth leave (captured at 111.32); or

122.40.2 unpaid parental leave (captured at 114.16); or

122.40.3 grandparental leave (captured at 116.20); or

122.40.4 unpaid community service leave for voluntary community service (captured at 110); or

122.40.5 unpaid personal leave (captured at 98.58); or

122.40.6 Family, domestic or sexual violence leave (captured at 120.19).

122.41 An employee who is prevented from attending for duty under the Public Health Act 1997, part 6 may be granted long service leave during that period.

123. DISABILITY LEAVE

Purpose

123.1 Disability leave is available to employees to enable them to be absent from duty for the purposes of activities associated with an employee's diagnosed permanent or ongoing physical or psychological disability.

123.2 Disability leave supports the Territory's commitment to being an equitable employer and to support employees with disability to balance their work commitments with appointments or activities associated with their disability.

Eligibility

123.3 Disability leave is available to employees, other than casual employees, who have a disability. For the purposes of this clause, disability is defined as a permanent or ongoing physical or psychological disability attributable to one or more intellectual, cognitive, neurological, sensory or physical impairments or to one or more impairments attributable to a psychiatric condition.

Entitlement

123.4 Employees eligible for disability leave will be entitlement up to a maximum of 5 days/shifts of disability leave per calendar year, subject to the provision of appropriate evidence. Disability leave is non-cumulative.

123.5 An employee may be granted disability leave from the first day of service.

123.6 The use of disability leave is restricted to activities associated with an employee's disability, and is not to be used as a substitute for personal leave entitlements available under clause 98.

123.7 Disability leave is to be used for activities or appointments associated with the employee's disability, including, but not limited to any of the following:

123.7.1 To attend appointments with medical practitioners.

123.7.2 To attend treatment, rehabilitation, therapy or counselling.

123.7.3 To attend tests or assessments.

123.7.4 To receive delivery of, fitting, repairing, maintaining and undergoing training in uses of orthoses, prostheses, adaptive equipment, or other aids.

123.7.5 To obtain wheelchair or other equipment maintenance or replacement.

123.8 Disability leave may be taken as consecutive or single days, or as part days.

Evidence and conditions

123.9 Employees wishing to access disability leave should discuss their intention to take leave with their manager or supervisor as soon as practical.

123.10 An employee must make an application to the head of service to access disability leave accompanied by supporting documentary evidence.

123.11 Documentary evidence may include the following:

123.11.1 A medical certificate from a registered medical practitioner or registered health professional operating within their scope of practice.

123.11.2 A written referral, issued by a registered medical practitioner.

123.11.3 A statutory declaration.

123.11.4 Other reasonable forms of documentation.

123.12 Having considered the requirements of this clause the head of service may approve an employee's application to access disability leave, subject to operational requirements in the workplace.

123.13 If the head of service does not approve an employee's application for disability leave because of operational requirements, the head of service must consult with the employee to determine a mutually convenient alternative time (or times) for the employee to take the leave.

Employee Support

123.14 An employee may initiate a request to seek support through a flexible work arrangement and reasonable adjustments through an individual plan.

123.15 Following a request made under 123.14, the manager and employee will jointly prepare and agree to the individual plan.

Rate of payment

123.16 Disability leave must be granted with pay.

123.17 The rate of payment to be paid to the employee during a paid period of disability leave is the same rate as would be paid if the employee was granted paid personal leave.

Effect on other entitlements

123.18 Employees who are unable to attend work due to illness related to their disability may utilise personal leave.

123.19 Disability leave will count as service for all purposes.

123.20 Public holidays for which the employee would otherwise have been entitled to payment that fall during periods of absence on disability leave must be paid as a normal public holiday.

Interaction with other leave entitlements

123.21 Where an employee has exhausted their disability leave entitlement, they may apply to the head of service for approval to take personal leave, or other forms of paid leave such as annual leave or long service leave.

124.SURROGACY LEAVE

Purpose

124.1 Surrogacy leave is available to pregnant employees who have entered into a valid surrogacy arrangement to enable them to be absent from duty to do both of the following:

124.1.1 Support their own wellbeing.

124.1.2 Support the employee's right to continuity of service.

Eligibility

124.2 An employee who is pregnant as part of a valid Australian surrogacy agreement is eligible to be absent on surrogacy leave.

124.3 An employee who is eligible for surrogacy leave is not entitled to birth leave under clause 111.

124.4 An employee is eligible for surrogacy leave where one of the following applies:

124.4.1 The employee gives birth to a newborn child as part of a valid surrogacy agreement

124.4.2 The employee's pregnancy as part of a valid surrogacy agreement ends at within 20 weeks of the estimated date of delivery other than by the birth of a living child (including stillbirth).

124.5 Where an employee's pregnancy ends more than 20 weeks before the estimated date of delivery of the child any surrogacy leave which has been prospectively approved must be cancelled. In this circumstance the employee may become eligible for compassionate leave in accordance with clause 106 and/or special birth leave in accordance with clause 112.

Eligibility – paid surrogacy leave

124.6 An employee, other than a casual employee, who is eligible for surrogacy leave and who has completed 12 months of continuous service, including recognised prior service, immediately prior to commencing a period of surrogacy leave is eligible for paid surrogacy leave.

124.7 An employee, other than a casual employee, who is eligible for surrogacy leave and who completes 12 months of continuous service within the first 12 weeks of surrogacy leave is eligible for paid surrogacy leave for the period between completing 12 months of service and the end of the first 12 weeks of surrogacy leave.

124.8 An employee who is eligible for paid surrogacy leave and who is on approved leave without pay is eligible for paid surrogacy leave for the period between completing the approved period of leave without pay and the end of the first 12 weeks of surrogacy leave.

Entitlement

124.9 Subject to subclause 124.6, an employee who is eligible for paid surrogacy leave is entitled to 12 weeks of paid leave in relation to each birth.

124.10 To avoid doubt, the entitlement under this clause does not increase in cases of multiple births.

124.11 Surrogacy leave is non-cumulative.

124.12 Subject to subclauses 124.13 and 124.14, a surrogate who is eligible for surrogacy leave must absent themselves from duty for a period commencing 6 weeks prior to the estimated date of delivery of the child and ending 6 weeks after the actual date of birth of the child.

124.13 A surrogate who produces medical evidence from a registered medical practitioner stating they are fit for duty until a date less than 6 weeks prior to the estimated date of delivery of the child may continue to work up until a date recommended by the medical practitioner, subject to the approval of the head of service.

124.14 A surrogate who has given birth to a child and produces medical evidence from a registered medical practitioner stating they are fit for duty from a date less than 6 weeks after the date of birth of the child may resume duty on a date recommended by the medical practitioner, subject to the approval of the head of service.

124.15 A surrogate who has given birth to a child may resume duty following the end of the 6 week period after the birth of the child, and earlier than the end of the approved period of surrogacy leave subject to the approval of the head of service.

124.16 An employee who has given birth to a child is entitled to return to work in accordance with the provisions in the National Employment Standards of the FW Act.

Evidence and Conditions

124.17 An employee must give notice to their manager or supervisor as soon as practicable of their intention to be absent on surrogacy leave.

124.18 Surrogacy leave is deemed to be approved, however, an employee must submit an application to the head of service for any period of surrogacy leave.

124.19 Having considered the requirements of this clause the head of service must approve an employee's application to access surrogacy leave.

124.20 Prior to commencing surrogacy leave an employee will provide the head of service with documentary evidence of both the following:

124.20.1 The pregnancy and the estimated date of delivery from a registered medical practitioner or registered health professional who is operating within their scope of practice.

124.20.2 Evidence of the valid surrogacy arrangement.

124.21 If requested by the head of service, an employee must provide the head of service with documentary evidence of the birth and the date of the birth of the child as soon as possible after the birth of the child. Such documentary evidence may include a copy of the birth certificate or documents provided by a registered medical practitioner or registered health professional who is operating within their scope of practice.

Rate of payment

124.22 The rate of payment to the employee during a paid period of surrogacy leave is the same rate as would be paid if the employee was granted paid personal leave.

124.23 Despite subclause 124.22, where an employee varies their ordinary hours of work, either from part time to full time, from part time to different part time, or from full time to part time, during the 12-month period directly preceding surrogacy leave, the rate of payment for the paid component of their surrogacy leave, which will be capped at full time rates, will be

calculated by using the average of their ordinary hours of work, excluding any periods of leave without pay, for the 12-month period immediately before the period of surrogacy leave commences.

124.24 To avoid doubt, an employee's status and all other entitlements remain unaltered by the operation of subclause 124.23.

Effect on other entitlements

124.25 Surrogacy leave with pay will count as service for all purposes.

124.26 Any period of unpaid surrogacy leave taken by an employee during the period commencing 6 weeks prior to the estimated date of delivery of the child and ending 6 weeks after the actual date of birth of the child will count as service for all purposes.

124.27 Public holidays for which the employee would otherwise have been entitled to payment that fall during periods of absence on surrogacy leave will not be paid as a normal public holiday.

Interaction with other leave entitlements

124.28 An employee who is eligible for surrogacy leave is not entitled to birth leave under clause 111.

125.GENDER AFFIRMATION LEAVE

Purpose

125.1 Gender affirmation leave is available to employees to enable them to be absent from duty for the purposes of activities associated with affirming an employee's gender.

Eligibility

125.2 Gender affirmation leave is available to employees, other than casual employees, who are affirming their gender.

Entitlement

125.3 Gender affirmation leave is available to an employee during the course of their employment to undertake necessary gender affirmation steps and procedures.

125.4 An employee undergoing gender affirmation is entitled, subject to the provision of appropriate evidence, to both the following:

125.4.1 Up to 4 weeks (20 days) paid leave, or up to 8 weeks (40 days) at half pay.

125.4.2 Up to 48 weeks unpaid leave.

125.5 Leave for gender affirmation purposes is in addition to other leave entitlements, and is to be used for activities associated with affirming an employee's gender, including, but not limited to any of the following:

125.5.1 To attend appropriate medical or psychological appointments.

125.5.2 To attend counselling appointments.

125.5.3 To obtain legal advice or attend documentation amendment appointments.

125.5.4 To obtain hormonal treatments.

125.5.5 To undergo gender affirmation surgery or to attend surgery-related appointments.

Note: it may be necessary under this provision for the employee to use additional time to the duration of appointments in order to facilitate travel and recovery.

125.6 Leave for gender transition purposes may be taken as consecutive or single days, or as part days.

Evidence and conditions

125.7 Employees wishing to access gender affirmation leave should discuss their intention to take leave with their manager or supervisor, or an appropriate HR Manager, as soon as practical.

125.8 An employee must make an application to the head of service to access gender transition leave. As far as practicable an employee will provide at least 4 weeks' written notice of their intended commencement date together with supporting documentary evidence.

125.9 Evidence may include any of the following:

125.9.1 A medical certificate from a registered medical practitioner or registered professional operating within their scope of practice.

125.9.2 A written referral, issued by a registered medical practitioner, to a counsellor.

125.9.3 A document issued by a counsellor.

125.9.4 A legal or other document issued by a state, territory, or federal government organisation.

125.9.5 A statutory declaration.

125.10 Having considered the requirements of this clause the head of service may approve an employee's application to access gender affirmation leave.

Rate of payment

125.11 Gender affirmation leave will be granted with pay for the first 4 weeks, or 8 weeks at half pay.

125.12 Paid gender affirmation leave may be taken with full or half pay, or a combination of full and half pay, with credits to be deducted on the same basis. The maximum paid period is up to 8 weeks at half pay.

125.13 The rate of payment to be paid to the employee during a paid period of gender affirmation leave is the same rate as would be paid if the employee was granted paid personal leave.

Effect on other entitlements

125.14 Leave with pay for gender affirmation purposes will count as service for all purposes. Leave without pay for gender affirmation purposes will not count as service for any purpose, but will not break an employee's continuity of service.

125.15 Public holidays for which the employee would otherwise have been entitled to payment that fall during periods of absence on gender affirmation leave will be paid as a normal public holiday.

Interaction with other leave entitlements

125.16 An application by an employee for long service leave or annual leave during a period that would otherwise be an unpaid period of gender affirmation leave will be granted to the extent of available entitlements.

125.17 An application by an employee for personal leave during a period that would otherwise be an unpaid period of gender affirmation leave will be granted subject to the employee providing a certificate from a registered medical practitioner or registered health professional operating within their scope of practice to the extent of available entitlements.

126. ASSISTED REPRODUCTIVE LEAVE

Purpose

126.1 Assisted reproductive leave is available to employees, other than casual employees, to enable them to be absent from duty to undergo assisted reproductive treatments and attend medical appointments in relation to assisted reproductive treatments.

Eligibility

126.2 Paid assisted reproductive leave is available to an employee, other than a casual employee, who is to undergo assisted reproductive treatments.

126.3 An employee who has completed at least 12 months continuous service, including recognised prior service, immediately prior to commencing assisted reproductive treatments is eligible for assisted reproductive leave.

126.4 Assisted reproductive leave is not available to the partner of the person undergoing assisted reproductive treatments unless they are also undergoing assisted reproductive treatment.

126.5 These provisions do not apply in respect of the birth of a child of the employee's legal surrogate or the adoption of a child or children by the employee.

Entitlement

126.6 The employee is entitled to up to five days paid assisted reproductive leave per calendar year.

126.7 Leave is non-cumulative and may be taken as single or consecutive days.

126.8 Assisted reproductive leave may be taken as part-days to facilitate the attendance of related medical appointments.

Evidence and Conditions

126.9 An employee should discuss with their manager or supervisor, as soon as practicable, their intention to be absent on assisted reproductive leave.

126.10 An employee must make an application to the head of service to access their assisted reproductive leave.

126.11 The head of service may request documentary evidence supporting the employees request to access assisted reproductive leave. Documentary evidence may include a medical certificate from a registered medical practitioner or registered health professional operating within their scope of practice confirming reproductive leave treatments and associated appointments.

126.12 Having considered the requirements of this clause, the head of service may approve an employee's application to access assisted reproductive leave.

Rate of Payment

126.13 Assisted reproductive leave is granted with pay, and is paid at the employee's base rate of pay, including relevant allowances for the ordinary hours the employee would have worked during the leave.

Effect on Other Entitlements

126.14 Assisted reproductive leave will count as service for all purposes.

126.15 Public holidays for which the employee is entitled to payment that fall during periods of absence on assisted reproductive leave will be paid as a normal public holiday and must not be deducted from the employee's annual leave balance.

Interaction with Other Leave Types

126.16 Paid assisted reproductive leave must not be taken concurrently with any other forms of leave.

126.17 Employees who are unfit to attend work due to illness related to their assisted reproductive treatments must apply for personal leave and are not eligible for assisted reproductive leave.

126.18 Despite clause 126.17, where an employee has exhausted their personal leave credits, the head of service may consider approving an application for assisted reproductive leave where the employee is unfit to attend work due to illness related to their assisted reproductive treatments.

127.LEAVE PLANNING, APPLICATIONS AND APPROVALS

127.1 This clause specifies the guidelines for applying for annual leave, purchased leave, long service leave, and planned leave without pay, to ensure that proper leave planning will occur, and that staff are advised within a reasonable time of decisions on the granting of leave. These provisions are intended to ensure that:

127.1.1 there is equitable access to leave for all staff;

127.1.2 that there is due consideration given to operational needs in planning leave; and

127.1.3 staff are encouraged to take leave and have reasonable breaks from work.

127.2 An employee may apply for leave at any time, but no more than 12 (twelve) months in advance of the proposed commencement date

127.3 Except in extenuating circumstances, all leave applications will need to be submitted at least 3 (three) months before the intended date of commencement.

127.4 An employee will be advised of the delegate's decision within 4 (four) weeks of making an application.

127.5 Criteria to guide employees and managers in the allocation and scheduling of leave are at Schedule 7 (Guidelines for Allocating and Scheduling Annual Leave) of this Agreement.

127.6 The head of service is not limited to granting leave in accordance with subclauses 127.5, where a change in circumstances arises which would permit an employee who has been refused leave being permitted to take leave.

127.7 Unless an employee has made an application for annual leave in accordance with this clause, the employee will not be entitled to claim payment for reimbursement under clause 93 (Vacation Childcare Subsidy) of this Agreement.

127.8 The operation of this clause will be reviewed during the life of the Agreement.

Section O Learning and Development

128.LEARNING AND DEVELOPMENT ARRANGEMENTS

128.1 The ACTPS is committed to attracting and retaining skilled employees able to deliver high-quality outcomes for the Government and for the Canberra community.

128.2 The ACTPS, employees and employee representatives are committed to quality learning and development for employees as provided for in the ACTPS Learning and Development Framework.

128.3 In order to effectively implement this Framework, the following arrangements have been agreed:

128.3.1 employees will be consulted through the Directorate Consultative Committee on the development and finalisation of Learning and Development Plans, as required under the Learning and Development Framework;

128.3.2 the ACTPS, employees and employee representatives will agree annually on the key Learning and Development priorities required under the Framework and an equitable use of resources to address these priorities; and

128.3.3 the ACTPS, employees and employee representatives will agree on learning and development strategies appropriate for the different categories of employees within the Directorate.

128.4 For the purposes of this clause, resources includes but is not limited to:

128.4.1 employees;

128.4.2 time;

128.4.3 funding (where required); and

128.4.4 equipment.

129.PROFESSIONAL DEVELOPMENT LEAVE

129.1 A permanent employee will be entitled to 24 (twenty-four) hours Professional Development Leave per annum (and pro-rata for part-time employees).

129.2 Professional Development Leave may accrue to a maximum of 48 (forty-eight) hours over a 2 (two) year period.

130.PROFESSIONAL DEVELOPMENT ALLOWANCE

130.1 To support ongoing professional development activities of nurses and midwives, eligible employees (excluding casuals) are entitled to an annual Professional Development Allowance paid on the first full pay period in July every year, starting in July 2024.

130.2 The Professional Development Allowance will be paid on the following basis:

130.2.1 $750 for nurses and midwives that work at or above 0.5 full-time equivalent (FTE) and are Australian Health Practitioner Regulation Agency (AHPRA) registered.

130.2.2 $375 for those that work below 0.5 FTE and are AHPRA registered and those employees in non-AHPRA registered positions.

130.3 An eligible employee is someone employed on 1 July in the year on which the allowance falls due.

131.TRANSITION FROM PROGRAMMED PROFESSIONAL DEVELOPMENT TIME

131.1 To transition away from the Programmed professional development time under previous Enterprise Agreements, a one off $2000 payment paid in two $1000 instalments over two years will be provided to employees covered by this Agreement.

131.2 The first instalment will be paid within 2 months of commencement of this agreement, with the second instalment to be paid on the first full pay period 12 months after the first instalment.

131.3 Full time employees will be eligible for the payments if they are a permanent or temporary employees covered by this enterprise agreement, employed on the date of effect of the relevant respective instalments.

131.4 Part-time employees and casual employees employed at the date of effect of the relevant instalments will be eligible for the transition payments on a pro-rata basis.

132.STUDIES ASSISTANCE AND OTHER PROFESSIONAL DEVELOPMENT OPPORTUNITIES

132.1 Study assistance scholarships and other professional development opportunities are available to employees on the basis of the priorities of the ACTPS in relation to the provision of services, and the priorities of the employees, on the basis of their personal learning and development objectives under their individual learning and development and performance management plans.

Nursing Scholarship Schemes

132.2 Employees may access the government-funded nursing scholarship schemes administered by the Health Directorate. Employees who wish to engage in a course of study not covered by the scholarship schemes may be assisted by the ACTPS. The Directorate may decide to reimburse such employees for some or all of their course fees.

Study Assistance Scheme

132.3 All permanent employees of the ACTPS and those on temporary employment contracts of 12 (twelve) months or longer, are eligible to apply for assistance under the Study Assistance scheme.

132.4 Employees may access the Study Assistance scheme. The aim of Study Assistance is to encourage and enable staff to access programs of study and is a suitable strategy for staff to meet their training and development needs. Study Assistance assists employees to undertake external study by providing discretionary access to paid study leave.

132.5 Study Assistance is not an entitlement and will be granted at the discretion of the applicant's manager/supervisor. Employees seeking Study Assistance support will need to discuss this with their manager/supervisor to determine whether their course of study needs to be reflected in their performance agreement and development plan.

Conference Attendance

132.6 An employee who is not in receipt of Study Assistance or alternative studies assistance may be assisted in their professional development through attendance at relevant external conferences and seminars, in accordance with the guidelines set out below:

132.6.1 in any year, this assistance will be limited to 1 (one) conference or seminar which the employee and the manager/supervisor agree will be of most assistance in developing knowledge and skills directly related to the employee's employment, or to meet the objectives of the employee's personal development plan and/or performance management agreement.

132.6.2 in these circumstances, the employee will be allowed to be absent from duty on such days as the employee would have been rostered for duty, but for the employee's attendance at the approved conference or seminar.

132.6.3 the manager/supervisor will record all absences for this purpose on the roster system. All absences from duty for this purpose must be recorded.

132.6.4 for other conferences and seminars the employee may wish to attend, the head of service, at their discretion, may grant such annual leave or leave without pay, or make a change to a roster, as may assist the employee to attend the conference or seminar. The degree of assistance provided will be proportionate to the relevance of the conference or seminar to the employee's employment.

In-Service Education Program

132.7 A program based on current needs is developed by the Staff Development Unit each year, on the basis of an annual educational needs assessment. Managers/supervisors are responsible for making such arrangements as may be required to ensure that employees may attend relevant professional development, education and training provided through the Training Management System.

Team Leader Training

132.8 Registered Nurses/Registered Midwives Level 1 will be provided with opportunities for training to perform the role of Team Leader. Employees will be afforded fair and equitable access to opportunities to obtain practical experience in this role.

133.SABBATICAL LEAVE

133.1 Sabbatical leave is available to up to 12 (twelve) employees each year. The leave is open to all permanent employees after 2 (two) years of continuous service with the ACTPS who have made substantial progress towards the attainment of a higher-level degree (e.g. Masters or PhD).

133.2 The employee will be granted sabbatical leave in addition to study bank and professional development leave; it is not intended to replace all other study leave.

133.3 The applicant must demonstrate that the degree is relevant to the work area and demonstrate successful progression towards completion, before leave is granted.

133.4 The leave will consist of 6 (six) weeks fully paid (pro-rata for part-time employees) and may be taken over 12 (twelve) weeks at half pay.

133.5 Approval must be gained from the head of service at least 12 (twelve) months before the period of absence.

133.6 Sabbatical leave accruals will not be paid out on termination of employment.

133.7 There is an expectation that the course will be completed in the relevant time frame.

Section P Workplace Values and Behaviours

134.INTRODUCTION

134.1 All employees have a common interest in ensuring that workplace behaviours are consistent with, and apply the values and general principles set out in Division 2.1 of the PSM Act and the ACT Public Service Code of Conduct and Signature Behaviours. This involves the development of an ethical and safe workplace in which all employees act responsibly and are accountable for their actions and decisions.

134.2 Behaviours that are not consistent with public sector values, principles and conduct including but not limited to bullying, harassment and discrimination of any kind will not be tolerated in ACTPS workplaces. It is recognised that bullying, harassment and discrimination in the workplace has both emotional and financial costs and that both systemic and individual instances of bullying and harassment are not acceptable.

134.3 The following provisions of Section P contain procedures for managing workplace behaviours that do not meet expected standards and management of misconduct.

134.4 These provisions for managing workplace behaviours and values promote the principles of natural justice and procedural fairness.

134.5 Any misconduct, underperformance, internal review or appeal process under the previous enterprise agreement that is not completed as at the date of commencement of this enterprise agreement will be completed under the previous enterprise agreement. Any right of appeal from that process will also be set out in the previous enterprise agreement.

134.6 Noting that the provisions of this Section P are in identical terms to provisions (however described) of other ACTPS Enterprise Agreements: If an employee moves from one directorate or Agreement to another either on a permanent or temporary basis while a misconduct process is on foot, and irrespective of whether this Agreement or another ACTPS Enterprise Agreement applied to the employee at the time the misconduct process commenced, the misconduct process will continue and the employee is required to continue to participate in the process.

134.6.1 Any disciplinary action and sanction which is determined to be applied under clause 142 will be applied to the employee in their new position, where the head of service determines it is appropriate and necessary and having due regard to the nature of the misconduct and the changes in employment circumstances including any material bearing on the employee's duties and responsibilities in their new position.

134.7 If an employee's employment has ended with the ACTPS while a misconduct process is on foot, the public sector standards commissioner will do one of the following:

134.7.1 Determine to complete the misconduct process under Section P of this Agreement, including inviting the employee to participate in the process, such that the outcome of the process can be taken into account with any application by the employee to subsequently re-enter the ACTPS.

134.7.2 Determine to stay the misconduct process under Section P of this agreement, upon the employee's end of employment and communicate to the employee that the misconduct process may recommence if the employee subsequently re-enters, or seeks to re-enter, the service.

134.7.3 Determine to discontinue the matter.

134.8 Any disciplinary action and sanction which is determined as a consequence of a resumed misconduct process may be imposed on the employee in their new position in accordance with 134.6.1 or taken into account with any application by the employee to subsequently re-enter the ACTPS.

135.PRELIMINARY ASSESSMENT

135.1 The preliminary assessment is a means of determining if there is a workplace issue, and the most appropriate way to resolve it. The preliminary assessment must be conducted expeditiously. The outcome should be focused on the workplace issue and an appropriate response that addresses the issue in context. The preferred approach whenever possible is to resolve the issues through a local and low level approach, and in a non-disciplinary way.

135.2 In cases where a workplace issue arises such as an allegation of inappropriate behaviour or alleged misconduct, the appropriate manager must undertake an assessment to determine whether the matter can be resolved locally or whether further action is required or not.

135.3 When undertaking an assessment, the nature, circumstances and context of the issue should be considered when forming the response.

135.4 The preliminary assessment may result in the following outcomes (this is not an exhaustive list):

135.4.1 If the manager is satisfied that no further action is necessary, no further action needs to be taken.

135.4.2 If the manager is of the view that formal or informal counselling or other alternative remedial or restorative action is appropriate, the manager will implement that action.

135.4.3 If the manager considers the issue related to performance issues, the manager may commence an underperformance process in accordance with Section Q (Underperformance).

135.4.4 If the manager determines that there are allegations of potential misconduct that require investigation, the manager will recommend to the relevant referral delegate that the matter should be referred in accordance with 135.8.

135.5 The manager may seek the assistance of an appropriate Human Resources adviser from within the Directorate or Professional Standards Unit, however the manager is responsible for undertaking the assessment unless an actual or perceived conflict of interest exists.

135.6 The assessment must be done in an expeditious manner and generally be limited to having discussions (either verbal or written) about the issue, with relevant employees, and, if requested, their representatives.

135.7 Although the principles of procedural fairness apply, this assessment is not a formal investigation (as this may occur after the assessment is undertaken) and is designed to enable a manager to quickly determine whether other action or formal investigation is needed or not to resolve the issues. The manager must communicate the outcomes to relevant employees and their representatives if any.

135.8 If the manager determines that the issue requires investigation the manager must recommend to the head of service that the matter be investigated.

135.9 The head of service may determine that no investigation is necessary where the employee admits to the alleged misconduct and the employee agrees that there is no need for an investigation. The employee must fully understand the misconduct they are admitting to and make an admission statement taken by the public sector standards commissioner.

135.10 Where an employee makes an admission in accordance with subclause 135.9 the public sector standards commissioner will provide the admission statement to the head of service who will determine the appropriate outcome. This may include disciplinary action or sanction in accordance with clause 142. The head of service must ensure that they have sufficient information concerning the nature and full circumstances of the misconduct, any mitigating factors, and details of the employee's prior service record and performance to enable a fair and reasonable determination under clause 142 to be made.

136.COUNSELLING

136.1 Counselling may happen outside of the preliminary assessment and misconduct processes. This is an opportunity for the employee and the manager to discuss possible causes and remedies for identified workplace problems. All parties have an obligation to participate in counselling in good faith.

136.2 Counselling can be conducted either informally through coaching and feedback or formally.

136.3 Informal counselling is a non-disciplinary method utilised to resolve a workplace issue. It should be used as a supportive, feedback type mechanism. Coaching and feedback should encourage and support the employee in understanding the requirements and expectations of a public servant in their role.

136.4 Formal counselling is counselling that an employee is required to participate in and is available as remedial action following the outcome of a preliminary process under clause 135. An employee may be directed to participate in formal counselling.

136.5 Where an employee refuses or fails to follow a direction to participate in formal counselling, the head of service may refer the matter to the Public Sector Standards Commissioner for investigation.

136.6 Where the employee disagrees with a direction to participate in formal counselling, the employee may provide a written request to the head of service seeking a formal investigation of the alleged inappropriate behaviour or alleged misconduct that required the formal counselling. Where a request is received, the head of service must refer the matter to the Public Sector Standards Commissioner for review.

136.7 In cases where counselling is considered to be appropriate, the employee will be informed what the discussion will be about and be invited to have a support person, who may be the employee's union or other employee representative, present at the counselling and will allow reasonable opportunity for this to be arranged. The employee must be advised whether the counselling is considered a formal or informal process.

136.8 In the cases where the counselling is considered to be formal, the manager or the head of service must create a formal record of the counselling which must include details about the ways in which the employee's conduct needs to change or improve, the time frames within which these changes or improvements must occur and may include a written direction about future expectations, standards and behaviours.

136.9 The record of formal counselling must be provided to the employee and the employee given an opportunity to correct any inaccuracies and provide comments before signing the record. The employee's signature is taken as representing their full agreement that the record accurately reflects the discussion. If the employee elects not to sign the record, then details of the offer and any reasons given for refusal must be clearly noted.

136.10 Where the manager or supervisor or the head of service considers that the employee's conduct has not improved following informal or formal counselling, a misconduct process may be undertaken in relation to continued or subsequent behaviour, following a preliminary assessment being undertaken in accordance with clause 135.

137. MISCONDUCT AND DISCIPLINE

Objectives and application

137.1 This clause establishes procedures for managing misconduct or alleged misconduct by an employee.

137.2 This clause applies to all employees, except casual employees who are not eligible casual employees. In applying these procedures to officers on probation, temporary employees or eligible casual employees, the head of service may determine that procedures and practices throughout clause 141 and clause 142 apply on a proportionate basis according to the circumstances of the case and in accordance with the principles of procedural fairness and natural justice.

137.2.1 If the process is to be applied on a proportionate basis in accordance with this subclause the content of that process, along with any estimated timeframes, must be communicated to the employee when the process commences.

137.3 The objective of these procedures is to encourage the practical and expeditious resolution of misconduct issues in the workplace.

137.4 All parties have an obligation to participate in misconduct processes in good faith.

What is misconduct

137.5 For the purposes of this section, misconduct includes any of the following:

137.5.1 The employee fails to meet the obligations set out in section 9 of the PSM Act.

137.5.2 The employee engages in conduct that the head of service or the public sector standards commissioner is satisfied may bring, or has brought, the directorate or the ACTPS into disrepute.

137.5.3 A period of unauthorised absence and the employee does not offer a satisfactory reason on return to work.

137.5.4 The employee is found guilty of, or is convicted of a criminal offence or where a court finds that an employee has committed an offence but a conviction is not recorded, taking into account the circumstances and seriousness of the offence, the duties of the employee and the interests of the ACTPS and the directorate.

137.5.5 The employee fails to notify the head of service of criminal charges in accordance with clause 143.

137.5.6 The employee makes a vexatious or knowingly false allegation against another employee.

What is serious misconduct

137.6 Serious misconduct means conduct that is so serious that it may be inconsistent with the continuation of the employee's employment with the Territory. Serious misconduct is defined within the Fair Work Regulations.

138. DEALING WITH ALLEGATIONS OF MISCONDUCT

138.1 Upon becoming aware of a matter of alleged misconduct the head of service must determine whether or not the matter needs to be investigated. Where the head of service determines that investigation is required the head of service must refer the matter to the public sector standards commissioner for investigation.

138.2 At any stage of dealing with alleged misconduct the head of service may, in accordance with clause 139 do any of the following:

138.2.1 Re-assign other duties to the employee.

138.2.2 Transfer the employee to other duties.

138.2.3 Suspend the employee with pay.

138.2.4 Suspend the employee without pay where serious misconduct is alleged.

138.3 In considering the appropriate action under 138.2, the employer should give preference to retaining the employee in the workplace where possible.

138.4 Upon receiving a referral in accordance with subclause 138.1 the public sector standards commissioner must do one of the following:

138.4.1 Make arrangements for an appropriately trained or experienced person (the investigating officer) to investigate the alleged misconduct in accordance with clause 140.

138.4.2 Decline to investigate the matter, or any part of the matter, if the public sector standards commissioner decides that an investigation will not resolve the matter and refer it back to the head of service for resolution or further consideration.

138.5 The public sector standards commissioner may determine that no investigation is necessary where the employee admits to the alleged misconduct and the employee agrees that there is no need for an investigation. The employee must fully understand the misconduct they are admitting to and have their admission statement taken by the public sector standards commissioner.

138.6 Where an employee makes an admission in accordance with subclause 138.5 the head of service may determine the appropriate disciplinary action or sanction in accordance with clause 142. The head of service must ensure that they have sufficient information concerning the nature and full circumstances of the misconduct, any mitigating factors, and details of the employee's prior service record and performance to enable a fair and reasonable determination under clause 142 to be made.

138.7 The public sector standards commissioner may at any time decide to instigate an investigation of alleged misconduct, in the absence of a referral under subclause 138.1, if satisfied that the matter warrants investigation.

138.8 Notwithstanding the provisions of this section, the head of service may summarily terminate the employment of an employee without notice for serious misconduct as defined within the Fair Work Regulations.

139. REASSIGNMENT, TRANSFER OR SUSPENSION

139.1 This clause applies to all employees.

139.2 In accordance with subclause 138.2 the head of service may reassign, transfer or suspend an employee with or without pay where the head of service is satisfied that the action taken is reasonable and it is in the public interest, the interests of the ACTPS or the interests of the directorate to do so while the alleged misconduct is being dealt with.

139.3 Suspension with pay should only be considered where it is inappropriate for the employee to remain in their current position and reassignment of duties or transfer is not appropriate. Suspension without pay should only be considered where cases of serious misconduct is alleged in accordance with 138.2.

139.4 The requirements under subclauses 139.5, 139.6 and 139.11 also apply in circumstances where an employee has been reassigned or transferred with pay to other duties following an allegation of misconduct, to the extent that the employee is no better off financially than if they had not been reassigned or transferred.

139.5 The head of service must not reassign, transfer or suspend an employee without first informing the employee of the reasons for the proposed reassignment, transfer or suspension and giving the employee the opportunity to be heard. Despite this, the head of service may suspend an employee first and then give the employee the reasons for the suspension and an opportunity to be heard, where, in the head of service's opinion, this is appropriate in the circumstances.

139.6 While suspended with pay an employee is paid in accordance with all of the following:

139.6.1 The employee's ordinary hourly rate of pay and any higher duties allowances that would have been paid to the employee for the period they would otherwise have been on duty.

139.6.2 Overtime (but not overtime meal allowance) and shift penalty payments where there is a regular and consistent pattern of extra duty or shift work being performed over the previous 6 months which would have been expected to continue but for the suspension from duty.

139.6.3 Any other allowance or payment (including under an Attraction and Retention Incentive entered into in accordance with Schedule 2 to this Agreement) of a regular or on-going nature that is not conditional on performance of duties.

139.7 Where a decision is made to suspend an employee with pay, no appeal or internal review of that decision is available.

139.8 Unless the employee is on authorised leave an employee who is suspended must be available to attend work and participate in the disciplinary process within 48 hours of receiving notice.

139.9 Suspension without pay is usually only appropriate where serious misconduct is alleged or where the employee is charged with a criminal offence that would in the opinion of the head of service be incompatible with the continuation of the employee's employment.

139.10 A period of suspension with or without pay must not be more than 30 calendar days unless exceptional circumstances apply.

139.11 If the period of suspension with or without pay extends beyond 30 calendar days as per subclause 139.10, the suspension should be reviewed every 30 calendar days unless the head of service considers that, in the circumstances, a longer period is appropriate.

139.12 While suspended without pay all of the following apply:

139.12.1 The employee may apply to the head of service for permission to seek alternate employment outside the ACTPS for the period of the suspension or until the permission is revoked. Any such permission given to the employee is granted on the condition that the employee remains available to attend work and participate in the disciplinary process as per subclause 139.8.

139.12.2 In cases of demonstrated hardship, the head of service may determine that the employee may cash out accrued long service leave and annual leave.

139.12.3 The employee may apply to the head of service for the suspension to be with pay on the grounds of demonstrated hardship.

139.13 An employee suspended without pay and who is later acquitted of the criminal offence (which is the subject of the allegation(s) of misconduct which caused the employee to be suspended), or is found not to have been guilty of the misconduct is entitled to both the following:

139.13.1 Repaid the amount by which the employee's pay was reduced.

139.13.2 Credited with any period of long service or annual leave that was cashed out in accordance with paragraph 139.12.2.12.2.

139.14 Where an employee is suspended and later found guilty of a criminal offence (whether or not a conviction is recorded), or is found guilty of misconduct and whose employment is terminated because of the offence or misconduct, a period of suspension under this clause does not count as service for any purpose, unless the head of service determines otherwise.

140. INVESTIGATIONS

140.1 The role of the investigating officer is to establish the facts of the allegations and to provide a report of those facts to the public sector standards commissioner.

140.2 The investigating officer must do all the following:

140.2.1 Inform the employee in writing of the particulars of the alleged misconduct, and details concerning the investigative process.

140.2.2 Give the employee a reasonable opportunity to respond to allegations, which the employee may do in writing or at a scheduled interview or in a different manner as agreed with the investigating officer, before making a finding of fact.

140.2.3 For written responses provide the timeframe for response which must be reasonable under the circumstances.

140.2.4 If the response includes an interview, provide the employee with at least 24 hours written notice prior to conducting an interview, and advise the employee if the interview is to be recorded electronically.

140.2.5 Advise the employee that the employee may have a second person present during the interview, who may be the employee's union representative or other individual acting as support person and must allow reasonable opportunity for this to be arranged; and provide a record of the interview to the employee.

140.2.6 Give the employee an opportunity to supplement the record of an interview with a written submission, if the employee so chooses.

140.2.7 As soon as practicable take any further steps considered necessary to establish the facts of the allegations.

140.2.8 Provide a written report to the public sector standards commissioner setting out the investigating officer's findings of fact.

140.3 If the employee fails to, or chooses not to, respond to the allegations in accordance with subclause 140.2 within a reasonable timeframe, the investigating officer must prepare the report and set out the findings of fact on the information available.

140.4 The investigating officer's findings of fact must be made on the balance of probabilities.

140.5 The head of service must provide access to relevant ACTPS information and communication technology (ICT) records including email, computer, work phone records, or building access logs in order for the public sector standards commissioner to establish the facts of the allegations.

141. FINDINGS OF MISCONDUCT

141.1 After considering the report from the investigating officer, the public sector standards commissioner must make a proposed determination on the balance of probabilities as to whether misconduct has occurred.

141.2 If the public sector standards commissioner determines that the misconduct has not occurred, the public sector standards commissioner must notify the employee of this finding and advise that no sanctions will be imposed.

141.3 If the public sector standards commissioner makes a proposed determination that misconduct has occurred, in accordance with subclause 141.1 the public sector standards commissioner must do all of the following:

141.3.1 Advise the employee in writing of the proposed determination that misconduct has been found to have occurred.

141.3.2 Provide written reasons for arriving at this proposed determination.

141.3.3 Provide a copy of the investigation report unless this would be inappropriate in the circumstances.

141.3.4 Advise the employee of the period during which the employee has to respond to the proposed determination that misconduct has occurred. This period must be no less than 14 calendar days.

141.4 After considering the employee's response or, if the employee has not responded, at any time after the period outlined in paragraph 141.3.4 has lapsed, the public sector standards commissioner must make a final determination as to whether or not misconduct has occurred and will do the following:

141.5 Inform the employee in writing of the final determination of whether or not misconduct has occurred; and if the determination is that misconduct has occurred do both the following:

141.5.1 Refer the matter to the head of service for consideration of whether or not disciplinary action is to be taken in accordance with clause 142.

141.5.2 Inform the employee that the matter has been referred to the head of service in accordance with subparagraph 141.5.1.

142. DISCIPLINARY ACTION AND SANCTIONS

142.1 This clause applies to circumstances in which one of the following applies:

142.1.1 The head of service receives a determination from the public sector standards commissioner in accordance with paragraph 141.5.

142.1.2 An admission is made by the employee under subclause 135.9 and 138.5.

142.1.3 An employee has been convicted of a criminal offence and the conviction or finding has adversely affected the interests of the Directorate or the ACTPS under subclause 143.4.

142.2 The head of service must consider whether or not disciplinary action is appropriate, and whether or not one or more of the following sanctions may be taken in relation to the employee:

142.2.1 A written reprimand.

142.2.2 A financial penalty in the form of one or more of the following:

142.2.3 Reduce the employee's incremental level.

142.2.4 Defer the employee's incremental advancement.

142.2.5 Impose a fine on the employee.

142.2.6 Require the employee to fully or partially reimburse the employer for damage that the employee has wilfully incurred to property or equipment.

142.2.7 Transfer the employee temporarily or permanently to another position at level or to a lower classification level.

142.2.8 Remove any benefit derived through an existing Attraction and Retention Incentive.

142.2.9 Termination of employment.

142.3 Nothing in this section limits the ability of the head of service to require an employee to participate in formal remedial programs and sessions aimed at assisting the employee with addressing the behaviour that was the subject of the misconduct process.

142.4 In relation to paragraph 142.2.7, if an employee's classification is reduced as a result of disciplinary action, service before the demotion is not counted towards an increment for any higher duties the employee performs after demotion.

142.5 Sanctions imposed under these procedures must be proportionate to the degree of misconduct concerned. In determining the appropriate sanction, all the following factors must be considered:

142.5.1 The nature and seriousness of the misconduct.

142.5.2 The degree of relevance to the employee's duties or to the reputation of the directorate or the ACTPS.

142.5.3 The circumstances of the misconduct.

142.5.4 Any mitigating factors, including any full admission of guilt.

142.5.5 The previous employment history and the general conduct of the employee.

142.6 If the employee has moved to a new position (other than as a result of a decision in accordance with clause 138) during the course of the misconduct process, the changes in employment circumstances must be taken into account as appropriate in accordance with paragraph 134.6.1.

142.7 Unless there are exceptional circumstances, the head of service must within 14 calendar days of receiving the referral or admission statement from the public sector standards commissioner under subparagraphs 141.5.1 or 135.10 or 138.6 inform the employee in writing of the proposed disciplinary action to be taken, if any, and provide the employee with 7 calendar days to respond.

142.8 The timeframes stipulated in 142.7 may be extended if the head of service and the public sector standards commissioner agree that extenuating circumstances warrant the extension.

142.9 After considering the employee's response in accordance with subclause 142.7, or if the employee does not respond, at any time after the 7 calendar days as set out in clause 142.7 have passed, the head of service must make their final decision and inform the employee in writing of all the following:

142.9.1 The final decision.

142.9.2 The disciplinary action to be taken, if any.

142.9.3 The date of effect and, if relevant, the cessation of any disciplinary action.

142.9.4 The appeal mechanisms that are available under Section T of this Agreement.

143. CRIMINAL CHARGES

143.1 An employee must advise the head of service in writing within 48 hours where practicable, but no longer than 7 calendar days, of any criminal charges laid against the employee in circumstances where the interests of the directorate or of the ACTPS may be adversely affected, taking into account all of the following:

143.1.1 The circumstances and seriousness of the alleged criminal offence.

143.1.2 The employee's obligations under section 9 of the PSM Act.

143.1.3 The effective management of the employee's work area.

143.1.4 The integrity and good reputation of the ACTPS and the directorate.

143.1.5 The relevance of the offence to the employee's duties.

143.2 Where criminal charges are laid against an employee and the interests of the directorate or the ACTPS may be adversely affected, the head of service may suspend the employee in accordance with the suspension arrangements under clause 139.

143.3 If an employee is found guilty of, or convicted of a criminal offence (including if a non-conviction order is made) the employee must provide a written statement regarding the circumstances of the offence to the head of service within 7 calendar days of the conviction or the finding.

143.4 Where an employee is convicted of a criminal offence and the conviction or finding has adversely affected the interests of the directorate or the ACTPS, the head of service may impose a sanction for misconduct against the employee in accordance with clause 142.

144. RIGHT OF APPEAL

144.1 An employee has the right under Section T to appeal against any finding of misconduct under clause 141, any decision to take disciplinary action or to apply a sanction under clause 142, or against any decision taken under clause 139 to suspend the employee without pay, or to transfer the employee at reduced pay, except action to terminate the employee's employment.

144.2 An employee may have an entitlement to bring an action under the FW Act in respect of any decision under this section to terminate the employee's employment. This is the sole right of review of such a decision.

144.3 The appeal procedures under Section T apply to the exclusion of the rights of appeal and review under the PSM Act and the internal review procedures contained in Section S of this Agreement.

145. REPORT TO THE NURSING AND MIDWIFERY BOARD OF AUSTRALIA

145.1 Under the provisions of the Health Practitioner Regulation National Law (ACT), all health professionals are obliged to maintain a required standard of practice.

145.2 Should an investigation undertaken by the ACTPS appear to identify a serious failure to meet the standards required by the Health Practitioner Regulation National Law (ACT) a report may be provided to the Nursing and Midwifery Board of Australia (NMBA) including the outcome of the ACTPS investigation.

145.3 The reporting of a matter to the NMBA will be subject to the provisions of the Health Practitioner Regulation National Law (ACT).

145.4 Where the matter has been referred to the NMBA the ACTPS will inform the employee in writing that a report has been made.

145.5 The head of service **may** reserve any other action pending the decision of the NMBA.

Section Q Underperformance

146. INTRODUCTION

146.1 All employees have an obligation to exercise the functions of an office in accordance with the best practice principle. These responsibilities and standards are established in accordance with Division 2.1 of the PSM Act and the ACT Public Service Code of Conduct and Signature Behaviours.

146.2 These provisions for managing cases of unsatisfactory work performance promote the principles of natural justice and procedural fairness.

146.3 Any underperformance under the previous enterprise agreement that is not completed as at the date of commencement of this enterprise agreement will be completed under the previous enterprise agreement. Any right of appeal from that process will also be set out in the previous enterprise agreement.

147. UNDERPERFORMANCE

147.1 Under this clause, procedures are established for managing underperformance by an employee.

147.2 This clause applies to all employees except casual employees who are not eligible casual employees. In applying these procedures to officers on probation, temporary employees or eligible casual employees, the head of service may determine that procedures and practices throughout this clause 148 may be applied on a proportionate basis according to the circumstances of the case, and in accordance with the principles of procedural fairness and natural justice.

147.2.1 If the process is to be applied on a proportionate basis in accordance with this subclause the content of that process, along with any estimated timeframes, will be communicated to the employee when the process commences.

147.3 The objectives of these procedures are to do both of the following:

147.3.1 Provide advice and support to an employee whose performance is below the standard required.

147.3.2 Provide a fair, prompt and transparent framework for action to be taken where an employee continues to perform below expected standard.

Underperformance Discussions

147.4 Consistent with good management practice, concerns about underperformance should be raised by the manager or supervisor with the employee at the time that the concerns arise or identified. The manager or supervisor should offer advice and support to the employee to overcome these concerns. The manager or supervisor should inform the employee that the underperformance procedures in subclauses 147.7 to 147.20 might be invoked if underperformance continues.

147.5 In order to ensure that these procedures operate in a fair and transparent manner, the manager or supervisor will be responsible for documenting all relevant discussions. This includes making a record of all relevant discussions under this clause, to be signed by both the manager or supervisor and the employee. The employee must be given the opportunity to

comment on any records before signing them. In circumstances where the employee refuses to sign such a record, the refusal will be noted on the relevant record.

147.6 All parties have an obligation to participate in underperformance processes in good faith.

Underperformance Process

Step One: Action Plan

147.7 Where a manager or supervisor assesses that an employee's work performance is demonstrated as being below expected standards after having previously discussed concerns with the employee in line with subclause 147.4 the manager or supervisor must inform the employee in writing of this assessment and the reasons for it. The employee must be invited by the manager or supervisor to provide written comments on this assessment, including any reasons that in the employee's view may have contributed to their recent work performance.

147.8 After taking into account the comments from the employee, the manager or supervisor must prepare an action plan in consultation with the employee.

147.9 The manager or supervisor must invite the employee to have a support person, who may be the employee's union or other employee representative, present at discussions to develop the action plan and will allow reasonable opportunity for this to be arranged.

147.10 The action plan must provide all of the following:

147.10.1 Identify the expected standards of work required of the employee on an on-going basis.

147.10.2 Identify and/or develop any learning and development strategies that the employee should undertake.

147.10.3 Outline the potential underperformance actions that may be taken if the employee does not meet the expected work standards.

147.10.4 Specify the action plan period, which should not normally be less than 1 (one) month and should not exceed 6 (six) months to allow the employee sufficient opportunity to achieve the expected standard.

147.10.5 Specify the assessment criteria to be measured within the action plan period.

147.11 Any current performance agreement for the employee must be suspended during the period of the action plan. Any incremental advancement action for the employee must be suspended during the action plan period.

Step Two: Regular Assessment

147.12 During the action plan period, the manager or supervisor must make regular written assessments (desirably every fortnight) of the employee's work performance under the action plan. The employee must be given an opportunity to provide written comments on these assessments.

147.13 If the manager or supervisor considers that further assessment time is needed the manager or supervisor may extend the action plan period. However, the extended assessment time must not result in the action plan exceeding 6 (six) months duration. The manager or supervisor must inform the employee in writing of this decision to extend the assessment time and the duration of the action plan.

Step Three: Final Assessment/Report

147.14 If at the end of the action plan period, the manager or supervisor assesses the work performance of the employee as satisfactory, no further action can be taken under these procedures at that time. The manager or supervisor must inform the employee in writing of this decision.

147.15 If at the end of the action plan period, the manager or supervisor assesses the work performance of the employee as not satisfactory, the manager or supervisor must provide a report including the assessment and reasons for the assessment to the head of service.

Step Four: Underperformance Action

147.16 The head of service must advise the employee in writing of all of the following:

147.16.1 The assessment and reasons for the manager's or supervisor's assessment.

147.16.2 The underperformance action(s) (subclause 147.17) proposed to be taken and the reasons for proposing this action.

147.16.3 The employee's right to respond in writing to the proposed action within a period of not more than 7 (seven) calendar days.

147.17 At any time after 7 (seven) calendar days from the date the head of service advised the employee under subclause 147.16, and after considering any response from the employee, the head of service may decide to take one or more of the following underperformance actions:

147.17.1 Transfer the employee to other duties (at or below current pay).

147.17.2 Defer the employee's incremental advancement.

147.17.3 Reduce the employee's increment point.

147.17.4 Temporarily or permanently reduce the employee's classification and pay.

147.17.5 Remove any benefit derived through an existing Attraction and Retention Incentive.

147.17.6 Terminate the employee's employment.

147.18 If an employee's incremental point is reduced in accordance with subclause 147.17.3, or the employee's classification is permanently reduced in accordance with subclause 147.17.4, the date the sanction takes effect will become the new anniversary date for the purpose of future incremental advancement. Any higher duties worked prior to the date of sanction will not count towards incremental advancement at a higher level.

147.19 The head of service must inform the employee in writing of this decision made under 147.17, the reasons for the decision and the appeal mechanisms available under the Agreement.

147.20 At any time in these procedures, the employee may elect to be retired on the grounds of inefficiency.

148. APPEAL RIGHTS

148.1 The employee has the right under Section R to appeal any underperformance action taken under subclause 147.17, except action to terminate the employee's employment.

148.2 The employee may have an entitlement to bring an action under the FW Act in respect of any termination of employment under this Agreement. This will be the sole right of review of such an action.

Section R Communication and Consultation

149.CONSULTATION

149.1 There must be effective consultation with an employee(s) and their representatives, including union representatives, on workplace matters. The ACTPS recognises that consultation and employee participation in decisions that affect them is essential to the successful management of change.

149.2 If there are proposals by the ACTPS to introduce changes that would have a significant effect on an employee or a group of employees, the head of service must consult with the affected employees and union(s). Consultation means a genuine opportunity to contribute to and influence the decision making process prior to decisions being made.

149.2.1 Significant Effect includes, but is not limited to, effects of proposals that deal with any of the following:

149.2.1.1 The termination of the employment of employees through redundancy.

149.2.1.2 Changes to the composition, operation or size of the directorate workforce or the skills required of employees

149.2.1.3 The elimination of diminution of job opportunities (including opportunities for promotion or tenure).

149.2.1.4 The alteration of hours of work.

149.2.1.5 The need to retrain employees.

149.2.1.6 The need to physically relocate employees.

149.2.1.7 The restructuring of job-roles, positions, structures or directorates.

149.2.1.8 Changes to employment policies.

149.2.1.9 Anything likely to materially affect workloads.

149.2.1.10 Any other matter deemed relevant by parties covered by this Agreement.

149.3 An employee(s) and/or their representatives may also initiate consultation on any matters or proposals if such consultation hasn't already been initiated under subclause 149.2.

149.4 The head of service must provide relevant information to assist the employees and the unions to understand the reasons for the proposed changes and the likely impact of these changes so that the employees and the unions are able to contribute to the decision making process.

149.5 In addition to the consultation outlined in subclauses 149.1 to 149.3 all the following apply:

149.5.1 A Directorate Consultative Committee (DCC) must be established, with membership to be agreed by the head of service and the union(s) following commencement of this Agreement and comprising representatives of both of the following:

149.5.1.1 The head of service.

149.5.1.2 The union(s).

149.5.2 Adequate time will be provided to employees and union(s) to consult with the relevant Directorate.

149.5.3 A directorate may establish a DCC to cover one of more enterprise agreements that cover its employees.

149.5.4 Additional levels of consultation, such as a Workplace Consultative Committee (WCC), may be established with the agreement of the relevant DCC to operate at a local level. Where established these levels of consultation must deal with workplace specific issues before such issues may be raised with the DCC and have membership agreed by the DCC.

Directorate Consultative Committee (DCC)

149.6 The purpose of the Directorate Consultative Committee (DCC) is to do all the following:

149.6.1 Monitor the operation and implementation of this Agreement.

149.6.2 Consider any proposed new or significant changes to Directorate policy statements and guidelines that relate to the provisions of this Agreement.

149.6.3 Consult on workplace matters significantly affecting employees.

149.7 The DCC will meet within 2 (two) months of the commencement of this Agreement. The purpose of this meeting is to agree on the terms of reference, which will include the consultative structure to operate during the term of this Agreement.

149.7.1 The DCC must meet at least quarterly, unless a different period is agreed in the Terms of Reference.

149.7.2 Additional meetings of the DCC may also be convened if requested by any member of the DCC, or as determined by the Terms of Reference.

Reasonable Workload Committee (RWC)

149.8 The Reasonable Workload Committee will provide a structured and transparent forum for all nurses and midwives to be genuinely consulted about workload matters and to contribute to the decision making process.

149.8.1 The RWC will deal with issues of nursing workload management, including the provision of specialist advice, training and workload management review in relation to the local application of Ratios/NHPPD and with grievances or disputes relating to its application.

149.8.2 Nurses will also have the ability to raise concerns about workload through the committee process and provisions contained within the Enterprise Agreement.

149.8.3 The RWC will meet at least monthly. Meetings will be in work time. All members of the committee will be released from their work areas/positions to attend meetings and their positions will be appropriately backfilled. RWC members who are required to attend in off-duty time will be paid for attendance.

149.8.4 The RWC will report to the Directorate Consultative Committee (DCC).

149.8.5 Monthly workload monitoring and variances of staffing levels and workloads will be reported to the RWC, which will include the information in its report to the DCC under subclause 149.8.4.

149.9 Existing local consultative arrangements will remain in place until such arrangements are replaced by the new consultative arrangements.

Consultation on the PSM Act and PSM Standards

149.10 The Chief Minister and Treasury Directorate must consult with unions and employees prior to the finalisation of any significant changes or any new provisions in the PSM Act and PSM Standards and any new sector-wide policy statements or guidelines that relate to the provisions of this Agreement. This consultation may occur through the Joint Council.

150. CONSULTATION ON CHANGES TO REGULAR ROSTERS OR ORDINARY HOURS OF WORK

150.1 If the ACTPS proposes to introduce a change to the regular roster or ordinary hours of work of employees, the head of service must do all the following:

150.1.1 Notify the relevant employees of the proposed change.

150.1.2 Recognise the affected employee(s) union or other representative.

150.1.3 As soon as practicable after proposing to introduce the change, all of the following:

150.1.3.1 Discuss with the relevant employees the introduction of the change.

150.1.3.2 For the purposes of the discussion, provide to the relevant employees with all of the following:

R.150.1.3.2.1 All relevant information about the change, including the nature of the change.

R.150.1.3.2.2 Information about what the head of service reasonably believes will be the effects of the change on the employees.

R.150.1.3.2.3 Information about any other matters that the head of service reasonably believes are likely to affect the employees; and

150.1.3.3 Invite the relevant employees to give their views about the impact of the change (including any impact in relation to their family or caring responsibilities).

150.2 The head of service is not required to disclose confidential or commercially sensitive information to the relevant employees.

150.3 The head of service must give prompt and genuine consideration to matters raised about the change by the relevant employees.

150.4 These provisions are to be read in conjunction with other consultative obligations detailed in the Agreement.

Note: In this term, "relevant employees" means the employees who may be affected by a change referred to in subclause 150.1.

150.5 In addition, the employer undertakes that, for the purposes of subclause 150.2, the head of service will recognise and consult with the affected employee(s), their union or other representative.

151.REVIEWS AND SPECIAL PROJECTS

151.1 The Directorates and the unions will work collaboratively to conclude the reviews as listed below during the life of the agreement:

151.1.1 Work Level Standards (subclause 22.4)

151.1.2 Special Employment Conditions – Continuity of Care Midwifery Model (Schedule 3).

151.1.3 Joint Rostering Review (Clause 60);

151.1.4 Carparking (Clause 193)

151.1.5 Leave Planning (Clause 127 to be reviewed as part of the Joint Rostering Review).

151.2 The Directorates and the unions will discuss the provision of adequate resources and support for employees undertaking a review to ensure work is completed within agreed timeframes.

151.3 The Directorates and the unions will agree on the relevant terms of references and scope for each review, such agreement not to be unreasonably withheld.

151.4 The DCC will receive a final report and recommendations from each review.

151.5 The DCC will discuss, and the parties will attempt to agree upon, any necessary decision on recommendations arising from each review within one month of receiving the report.

151.6 Where agreement cannot be reached at any stage of the process, the Dispute Avoidance and Settlement Procedures processes contained in clause 152 (Dispute Avoidance/Settlement Procedures) of this Agreement may be applied.

152.DISPUTE AVOIDANCE/SETTLEMENT PROCEDURES

152.1 The objective of these procedures is the prevention and resolution of disputes about both the following:

152.1.1 Matters arising in the workplace, including disputes about the interpretation or implementation of the Agreement.

152.1.2 The application of the NES.

152.2 For the avoidance of doubt, these procedures, including FWC exercising any powers it has, including arbitration and making a determination binding on the parties, apply to Schedule 10 - Mandated Minimum Nurse/Midwife-to-Patient Ratios.

152.3 For the purposes of this clause, except where the contrary intention appears, the term 'parties' refer to 'parties to the dispute'.

152.4 All persons covered by the Agreement agree to take reasonable internal steps to prevent, and explore all avenues to seek resolution of, disputes.

152.5 An employee who is a party to the dispute may appoint a representative, which may be a relevant union, for the purposes of the procedures of this clause.

152.6 In the event that there is a dispute, all the following processes will apply.

152.6.1 Where appropriate, the relevant employee or the employee's representative will discuss the matter with the employee's supervisor. Should the dispute not be resolved, it will proceed to the appropriate management level for resolution.

152.7 In instances where the dispute remains unresolved, the next appropriate level of management, the employee, the union or other employee representative must be notified and a meeting will be arranged at which a course of action for resolution will be discussed.

152.8 If the dispute remains unresolved after this procedure, a party to the dispute may refer the matter to the FWC.

152.9 The FWC may deal with the dispute in the following two stages:

152.9.1 The FWC must first attempt to resolve the dispute as it considers appropriate, including by mediation, conciliation, expressing an opinion or making a recommendation.

152.9.2 If the FWC is unable to resolve the dispute at this first stage, the FWC may then do both of the following:

152.9.2.1 Arbitrate the dispute.

152.9.2.2 Make a determination that is binding on the parties.

152.10 The FWC may exercise any powers it has under the FW Act as are necessary for the just resolution or determination of the dispute.

152.11 A person may be assisted and represented at any stage in the dispute process in the FWC on the same basis as applies to representation before the FWC under Section 596 of the FW Act.

152.12 All persons involved in the proceedings under subclause 152.10 will participate in good faith.

152.13 Unless the parties agree to the contrary, the FWC must, in responding to the matter, have regard to whether a party has applied the procedures under this term and acted in good faith.

152.14 The parties agree to be bound by a decision made by the FWC in accordance with this clause.

152.15 Notwithstanding subclause 152.15 any party may appeal a decision made by the FWC in accordance with the FW Act.

152.16 Despite the above, the parties may agree to submit the dispute to a body or person other than the FWC. Where the parties agree to submit the dispute to another body or person, all the following apply:

152.16.1 Reference to the FWC in the above provisions will be read as a reference to the agreed body or person.

152.16.2 All obligations and requirements on the parties and other relevant persons under the above provisions must be complied with unless the parties agree otherwise.

152.16.3 The agreed body or person must deal with the dispute in a manner that is consistent with Section 740 of the FW Act.

152.17 While the parties are trying to resolve the dispute using procedures in this clause the employee must do all of the following:

152.17.1 Continue to perform their work as they would normally unless they have a reasonable concern about an imminent risk to their health or safety.

152.17.2 Comply with a direction given by the head of service to perform other available work at the same workplace, or at another workplace, unless any of the following apply:

152.17.2.1 The work is not safe.

152.17.2.2 Applicable workplace health and safety legislation would not permit the work to be performed

152.17.2.3 The work is not appropriate for the employee to perform.

152.17.2.4 There are other reasonable grounds for the employee to refuse to comply with the direction.

152.18 Any dispute formally commenced in accordance with subclause 152.9 under the ACTPS Nursing and Midwifery Enterprise Agreement 2020-2022, but not concluded before the commencement of this Agreement, shall continue to be dealt with in accordance with the dispute settlement provisions in this Agreement. Any steps already taken in that process will be recognised and accepted by parties and the FWC as steps taken for the purpose of this clause.

153.FLEXIBILITY TERM

153.1 The head of service and an individual employee may agree to vary the application of certain provisions of this Agreement to meet the particular needs of a business unit in the ACTPS and of the individual employee (an individual flexibility arrangement)

153.2 The head of service and an individual employee may agree to vary, through an individual flexibility arrangement, any of the following provisions of this Agreement:

153.2.1 Family and carers' responsibilities, including Vacation Child Care Subsidy and family care costs.

153.3 The head of service must ensure that the provisions of the individual flexibility arrangement meet all of the following:

153.3.1 They would be permitted if the arrangement were an enterprise agreement.

153.3.2 They do not include a term that would be an unlawful term if the arrangement were an enterprise agreement.

153.3.3 They will result in the employee being better off overall than the employee would have been if no individual flexibility arrangement were agreed to.

153.4 The head of service must ensure that the individual flexibility arrangement meets all of the following:

153.4.1 It identifies the clause of this Agreement that the head of service and the employee have agreed to vary.

153.4.2 It sets out details of how the arrangement will vary the effect of the clause.

153.4.3 It includes details of how the employee will be better off overall in relation to the terms and conditions of his or her employment as a result of the arrangement.

153.4.4 It states the day the arrangement commences.

153.5 An individual flexibility arrangement made under this clause must be genuinely agreed to by the head of service and the individual employee.

153.6 Except as provided in paragraph 153.7.2 an individual flexibility arrangement made under this clause must not include a provision that requires the individual flexibility arrangement to be approved, or consented to, by another person.

153.7 The head of service must ensure that the individual flexibility arrangement made under this clause must be in writing and signed by the following:

153.7.1 In all cases - by the employee and the head of service.

153.7.2 If the employee is under 18 – by a parent or guardian of the employee.

153.8 The head of service must give the employee a copy of an individual flexibility arrangement made under this clause within 14 (fourteen) days after it is agreed to.

153.9 The head of service or the employee may terminate the individual flexibility arrangement by doing either of the following:

153.9.1 Giving written notice of no more than 28 (twenty-eight) days to the other party to the arrangement.

153.9.2 Both parties agree in writing – at any time.

153.10 The right to make an individual flexibility arrangement under this clause is in addition to, and is not intended to otherwise affect, the right for the head of service and an individual employee to make an agreement under any other provision of this Agreement.

154.FREEDOM OF ASSOCIATION

154.1 The ACTPS 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 the employee's employment under this Agreement. The ACTPS recognises that employees who choose to be members of a union have the right to choose to have the employee's industrial interests represented by the union.

154.2 Employees in negotiations of any kind are entitled to negotiate collectively where they so choose.

154.3 Employees engaging in negotiations of any kind are entitled to be represented by a representative of their choice. The ACT Government shall deal with any such representative in good faith.

155.CO-OPERATION AND FACILITIES FOR UNIONS AND OTHER EMPLOYEE REPRESENTATIVES

155.1 For the purpose of ensuring that unions and other employee representatives, who are employees of the ACTPS, can effectively fulfil the employee representative role under this Agreement, the following provisions will apply.

155.2 Reasonable access to ACTPS facilities, including the internal courier service, access to the ACT Government communication systems, telephone, facsimile, photocopying, access to meeting rooms and storage space, must be provided to unions and other employee representatives to assist them to fulfil their representative obligations, duties and responsibilities having regard to the ACTPS's statutory obligations, operational requirements and resources.

155.3 In addition to the ACTPS facilities outlined in subclause 155.2, where available, a union or employee representative who is an employee of the ACTPS must be able to establish designated Outlook public folders, which will provide a collaborative electronic workspace to improve the flow of information. The use of ACTPS facilities will be in accordance with published whole-of-government policies and for matters other than for industrial action.

155.4 A union or other employee representative who is an employee of the ACTPS must be provided with adequate paid time off from their usual working hours, to undertake duties to represent other employees.

155.5 While the representative duties would normally be expected to be performed within the workplace, on occasions the union or other employee representative may be required to conduct these duties external to the workplace.

155.6 The role of union workplace delegates and other recognised union representatives is to be respected and facilitated. The ACTPS and union workplace delegates must deal with each other in good faith.

155.7 In addition to other provisions in this Agreement, in discharging their representative roles at the workplace level, the rights of union workplace delegates include, but are not limited to, all of the following:

155.7.1 To be treated fairly and perform their role as workplace delegate without any discrimination in their employment.

155.7.2 To speak on behalf of their members in the workplace.

155.7.3 To participate in collective bargaining on behalf of those who they represent, as per the FW Act.

155.7.4 To reasonable paid time off from their ordinary working hours to do any of the following:

155.7.4.1 Provide information and seek feedback from employees in the workplace on workplace relations matters in the ACTPS during normal working hours.

155.7.4.2 Represent the interests of members to the employer and industrial tribunals.

155.7.4.3 Consult with other delegates and union officials in the workplace, and receive advice and assistance from union staff and officials in the workplace.

155.7.5 To email employees in their workplace to provide information to and seek feedback, subject to individual employees exercising a right to 'opt out'.

155.7.6 To consultation, and access to relevant information about the workplace and the ACTPS, subject to privacy legislation and other relevant legislation.

155.7.7 To undertake their role as union representatives on Directorate workplace relations consultative committee(s).

155.7.8 To have reasonable access to ACTPS facilities (including internet and email facilities, meeting rooms, lunch rooms, tea rooms and other areas where employees meet) for the purpose of carrying out work as a delegate and consulting with members and other interested employees and the union.

155.7.9 To address new employees about union membership at the time they enter employment in their workplace.

155.7.10 To access appropriate training in workplace relations matters including training provided by a union in accordance with clause 158.

155.8 In exercising their rights, workplace delegates and unions will adhere to ACTPS policies and guidelines and consider operational issues and the likely effect on the efficient operation of the ACTPS and the provision of services.

156. WORK ORGANISATION

156.1 An employee agrees to carry out all lawful and reasonable directions of the head of service according to the requirements of the work and the employee's skill, experience and competence, in accordance with this Agreement, and without deskilling the employee.

156.2 An employee will not, unless this is done in the course of the employee's duties or as required by law or by the ACTPS, use or disclose to any person any confidential information about the ACTPS's business that becomes known to the employee during the employee's employment.

156.3 The ACTPS will not reveal to any person any medical, financial or personal details of the employee that the ACTPS may have obtained, except with the permission of the employee or where the ACTPS is under a legal obligation to do so.

156.4 Subject to subclauses 156.5 to 156.8 and limited to new employees of the ACTPS whose employment with the ACTPS commences on or after the commencement of this Agreement (new employee), the ACTPS will provide details of the new employee's employment to the relevant union(s) (irrespective of whether the employee has elected to become a member of the union).

156.5 The details of the new employee's employment which the ACTPS may provide to a relevant union is limited to the new employee's first name and surname, the ACT Government contact information for the new employee (email address and contact phone number), and the position and Directorate in which the new employee is engaged. The ACTPS will not provide the information to the union(s) until at least 21 (twenty-one) days after the new employee has commenced employment.

156.6 Subclause 156.4 does not apply if the head of service has received written notification from the new employee, either prior to their commencement of employment, or within 14 (fourteen) days after their commencement, that he or she does not consent to the information specified in subclause 156.5 being shared with the relevant union(s).

156.7 Each of the unions referred to in subclause 3.1 who wish to receive the information referred to in subclause 156.5 must advise the ACTPS of the classifications covered by this Agreement which, in accordance with its rules, the union is entitled to represent. Upon receipt of that advice from the unions, the ACTPS will compile a schedule and provide it to the unions (Union Representation Schedule).

156.8 The ACTPS will only provide new employee information to the relevant union(s) under clause 166.4 in accordance with the Union Representation Schedule and will do so on a monthly basis.

157. RIGHT OF EXISTING AND NEW EMPLOYEES TO REPRESENTATION IN THE WORKPLACE

157.1 The ACTPS acknowledges the rights of its employees to be represented on any workplace relations matter and to meet with their representatives in the workplace. The ACTPS recognises the legitimate right of the union(s) to represent its employees who are members, or eligible to become members of the union(s).

157.2 The FW Act prescribes the purpose and manner under which unions may exercise right of entry in the workplace. The ACTPS will grant union(s) access in accordance with the FW Act.

157.3 In addition, the ACTPS must do all of the following:

157.3.1 Allow union officials and employees, who are permit holders, to enter ACTPS workplaces for normal union business or to represent employees, to meet with management or members and to distribute or post material, provided that work is not disrupted.

157.3.2 Allow the union(s) to meet with new ACTPS employees who are members, or who are eligible to become members, of the union(s), at a time during normal working hours which the union(s) and the ACTPS agree upon, and of which the ACTPS will advise the employees.

157.3.3 Provide all new ACTPS employees with some form of induction program, including an induction package containing information about the union(s) which the union(s) has given the ACTPS.

157.3.4 Invite the union(s) to attend any face to face induction of new ACTPS employees, the details of which the head of service will advise to the union(s) contact officer or other nominated person with reasonable notice. Such attendance will be included as an integral part of the induction process and be for the purpose of delivering an information presentation including recruitment information to new ACTPS employees.

157.3.5 Organise regular face-to-face meetings, which may be the face-to-face inductions of new ACTPS employees as per subclause 157.3.4, between new ACTPS employees and the relevant union(s), for the purpose of delivering an information presentation including recruitment information to new ACTPS employees. Such meetings will be held at regular intervals as agreed between the relevant directorate/s and the relevant unions.

157.4 For the avoidance of doubt, nothing in subclause 157.3 should be taken as conferring a right of entry that is contrary to, or for which there is otherwise, a right of entry under the FW Act.

158. ATTENDANCE AT INDUSTRIAL RELATIONS COURSES AND SEMINARS

158.1 For the purpose of assisting employees in gaining a better understanding of industrial relations issues relating to this Agreement, leave will be granted to employees to attend recognised short training courses or seminars subject to all of the following conditions:

158.1.1 Operating requirements permit the granting of leave.

158.1.2 The scope, content and level of the short courses are such as to contribute to a better understanding of human resource management issues that may arise under this Agreement.

158.1.3 Leave granted under this clause will be with full pay, not including shift and penalty payments or overtime.

158.1.4 Each employee will not be granted more than 15 (fifteen) days/shifts leave in any calendar year.

158.2 If the employee has applied for leave under subclause 158.1 and the application was rejected because of operational requirements, approval of any subsequent application for leave by the employee under subclause 158.1will not be withheld unreasonably, provided that the employee gives the manager/supervisor at least 14 (fourteen) days/shifts notice in writing.

158.3 The ACTPS will accept any short course conducted or accredited by a relevant employee organisation (for example union(s), the Australian Council of Trade Unions or the ACT Trades and Labour Council) as a course to which subclause 168.1 applies.

158.4 Leave granted for this purpose will count as service for all purposes.

159.PRIVATISATION

159.1 In order to promote job security of employees, it is agreed that the privatisation of a government entity may only occur if all of the following apply:

159.1.1 The entity does not perform a role central to the functions of government.

159.1.2 Disadvantaged groups would not be negatively affected by the privatisation.

159.1.3 A social impact statement has been completed which indicates that there is a demonstrated public benefit from the sale.

159.2 In the event that privatisation of an ACTPS Directorate or a service or services currently supplied by an ACTPS Directorate is under consideration, consultation will occur on the implications for employees and the relevant Directorate from these proposals.

159.3 Where such privatisation is under consideration, the ACTPS will provide the necessary reasonable resources to develop an in-house bid and this bid will be prepared either off-site or on-site as determined by the head of service and subject to consideration on equal terms to any other bid. An independent probity auditor will be appointed by the head of service to oversee the assessment of the in-house bid.

160.WORKPLACE HEALTH AND SAFETY

160.1 The Directorates will consult with employees and their representatives on the policies and practices to be adopted to ensure that the health and safety of employees is optimised in all environments in which nurses and midwives work.

160.2 In consultation with the Directorates, and based on the professional judgment of nurses and midwives, risk assessment and relevant Directorate policy, employees working in a community setting may elect at any time to be partnered by another person when attending a client's home.

WH&S Training

160.3 The Directorates will continue to provide training for their employees in areas including, but not limited to:

160.3.1 Risk Assessment and Management;

160.3.2 Preventative Workplace Health and Safety;

160.3.3 Incident Management and Response;

160.3.4 Disaster Prevention, Management and Response.

Peak Work Health and Safety Committee (WHSC)

160.4 The ACTPS will meet its WH&S consultative obligations under relevant legislation, and will maintain a Peak Work Health and Safety Committee.

160.5 The ACTPS, employees and employee representatives agree to actively participate in and support WHSC activities.

Section S Internal Review Procedures

161.OBJECTIVES AND APPLICATION

161.1 Under this Section, procedures are established for employees to seek a review of management actions that affect their employment with the ACTPS.

161.2 The procedures in this Section promote the values and general principles of the ACTPS and account for the principles of natural justice and procedural fairness.

161.3 These procedures apply to all employees covered by this Agreement.

161.4 For the purposes of this Section, an action includes a decision and a refusal or failure to make a decision.

162.DECISIONS AND ACTIONS EXCLUDED

162.1 All the following decisions and actions are excluded from the rights of an employee to seek a review under procedures set out in this Section:

162.1.1 actions regarding the policy, strategy, nature, scope, resourcing or direction of the ACTPS and agencies (see clause 149 of this Agreement for consultation on these actions);

162.1.2 actions arising under Commonwealth or ACT legislation that concern domestic or international security matters;

162.1.3 actions regarding superannuation (see relevant superannuation legislation for complaints and appeals on these actions, in particular the Superannuation Industry (Supervision) Act 1993 and the Superannuation (Resolution of Complaints) Act 1993;

162.1.4 actions regarding workers' compensation (see the Safety, Rehabilitation and Compensation Act 1988 for reviews and appeals on these actions);

162.1.5 decisions to terminate the appointment of an officer on probation;

162.1.6 decisions on classification of an office (see clause 18 of this Agreement for reviews on Classifications);

162.1.7 any action to which the employee has an appeal or review right under Section U of this Agreement;

162.1.8 any action to which the employee has an appeal right under subclause 166.3 of this Agreement;

162.1.9 any action arising from the preliminary assessment process under clause 135;

162.1.10 actions arising from the misconduct procedures of this Agreement;

162.1.11 actions arising from the underperformance procedures of this Agreement;

162.1.12 any decisions under subclauses 138.1, 138.3 and 138.6 of this Agreement;

162.1.13 any decisions under subclause 167.2 and 168.7 of this Agreement;

162.1.14 actions regarding the setting of rates of pay or conditions of employment under an award or agreement made under the FW Act or under the PSM Act or the PSM Standards; (this includes an Attraction and Retention Incentive (ARIn), or a pre FW Act Australian Workplace Agreement (AWA));

162.1.15 decisions to appoint or not appoint a person as an officer to a vacant position;

162.1.16 decisions that another officer perform the duties of a higher office for periods up to and including 6 (six) months;

162.1.17 decisions to transfer another employee or promote another officer to an advertised vacancy where the officer or employee seeking the review was not an applicant;

162.1.18 actions arising from the internal review procedures or appeal panel procedures of this Agreement, including the review and appeals procedures under Section U of this Agreement.

163.INITIATING A REVIEW

163.1 An employee should first discuss their concerns about an action or decision with the relevant decision-maker with a view to resolving the matter within the workplace before initiating a review under these procedures.

163.2 An employee, or the employee's union or other employee representative on the employee's behalf, has the right to apply for a review of any action or decision that directly affects the employee's employment, unless the action or decision is specifically excluded under this Section.

163.3 An employee, or the employee's union or other employee representative on the employee's behalf, may initiate a review under this Section by making an application to the head of service in accordance with all of the following:

163.3.1 It is in writing; and

163.3.2 It is made no more than 28 (twenty-eight) calendar days after the employee was advised of the decision that is the subject of the application for review, unless the head of service agrees that extenuating circumstances exist; and

163.3.3 It identifies the action and/or decision which the employee seeks a review of; and

163.3.4 It does not concern a decision or action that is excluded under subclause 162.1; and

163.3.5 It identifies the reasons the review is sought including, in the employee's view, the effect/s that the action or decision has or is having on the employee's employment; and

163.3.6 It outlines the extenuating circumstances, if any, where the application is made outside the timeframe specified in subclause 163.3.2; and

163.3.7 It describes the outcome sought.

163.4 If the review relates to a failure or refusal to make a decision in accordance with subclause 161.4, the 28 (twenty-eight) day time period outlined in subclause 163.3.2 will be taken to commence on the day it was apparent that there was a failure or refusal to make a decision.

163.5 The head of service will, provided that the requirements under subclause 163.3 have been met, refer the matter for review in accordance with clause 164.1.

164.REVIEW PROCESS

164.1 Notwithstanding subclause 163.5 where appropriate, and agreed by the employee who made the application under clause 163.3 (for the purposes of this Section S "the applicant" or the applicant's union or other employee representative on the applicant's behalf, the head of service must consider mediation as an option before arranging for a review under subclause 164.3. The mediator will be agreed between the applicant and the head of service.

164.2 In the event that mediation does take place and that it resolves the issues raised in the application, then no further action is required under these procedures. In that event a formal written statement that the issue has been resolved must be signed by the applicant and the head of service.

164.3 Subject to subclauses 163.5, 164.1 and 164.2 the head of service must arrange for an application made under clause 163 of this Agreement to be reviewed by an independent person (the reviewer) who may be one of the following:

164.3.1 a suitably skilled person who was not involved in the original action; or

164.3.2 a person chosen from a panel of providers.

164.4 The reviewer will be provided with all relevant information and evidence that was available to the delegate in the making of the original decision or in taking the original action.

164.5 The reviewer may recommend to the head of service that an application should not be considered on any of the following grounds:

164.5.1 The application concerns a decision or action that is excluded under 162.1.

164.5.2 The applicant has made an application regarding the decision or action to a court or tribunal, or where the reviewer believes it is more appropriate that such an application be made.

164.5.3 The reviewer believes on reasonable grounds that the application is any of the following:

164.5.3.1 Frivolous or vexatious.

164.5.3.2 Misconceived or lacks substance.

164.5.3.3 Should not be heard for some other compelling reason.

164.6 The head of service must either confirm a recommendation made by the reviewer under subclause 164.5 that an application should not be considered or arrange for another reviewer to consider the application.

164.7 The head of service will inform the applicant in writing, within 14 (fourteen) calendar days of the date of any decision under subclause 164.6, including, the reasons for any decision not to consider the application.

164.8 If the reviewer does not make a recommendation under subclause 164.5, then the reviewer will conduct a procedural review on the papers to determine all of the following:

164.8.1 Whether it was open to the head of service to take the action that they did.

164.8.2 Whether the principles of procedural fairness and natural justice were complied with in taking the original action.

164.8.3 Whether the final decision of the head of service was fair and equitable in all of the circumstances.

164.9 If the reviewer has any doubt over the reliability or validity of the information or evidence or processes used in making the initial decision or action, or that significant information, evidence was not considered in the making of the original decision or action, the reviewer will inform the head of service of that doubt and the reasons for it in the written report in accordance with 164.10.

164.10 After reviewing any action or decision the reviewer will, subject to subclause 164.14, make a written report to the head of service recommending one of the following:

164.10.1 The original decision/action be confirmed.

164.10.2 The original decision/action be varied.

164.10.3 Other action be taken.

164.11 A copy of the report under subclause 164.10 will be provided to the applicant and the applicant will be given the opportunity to provide a response. The applicant may respond to any aspect of the report. Such a response must be in writing and be provided to the head of service within 14 (fourteen) calendar days of the applicant receiving the report.

164.12 The head of service, after considering the report from the reviewer and any response from the applicant to the report of the reviewer, may do one of the following:

164.12.1 Confirm the original action.

164.12.2 Vary the original action.

164.12.3 Take any other action that the head of service believes is reasonable.

164.13 The head of service will inform the applicant in writing, within 14 (fourteen) calendar days of the date of any decision under subclause 164.12, including the reasons for the action.

Review of head of service decisions

164.14 Where the subject of the application is an action or decision of the head of service (in person) or the director general (in person) as the delegate of the head of service, the written report of the reviewer will be made to the Public Sector Standards Commissioner. A copy of this report will be provided to the applicant.

164.15 The public sector standards commissioner may, after considering the report from the reviewer, recommend to the head of service one of the following:

164.15.1 The original action be confirmed.

164.15.2 The original action be varied.

164.15.3 Other action be taken that the Public Sector Standards Commissioner believes is reasonable.

164.16 The head of service (in person) or the director general (in person) as the delegate of the head of service, after considering the report from the public sector standards commissioner, may do one of the following:

164.16.1 Accept any or all of the report's recommendation(s) and take such action as necessary to implement the recommendation(s); or

164.16.2 Not accept the report's recommendation(s) and confirm the original action.

164.17 If the head of service (in person) or the director general (in person) as the delegate of the head of service does not accept any one of the recommendation(s) of the public sector standards commissioner under subclause 164.16, they must do both the following:

164.17.1 Provide written reasons to the Public Sector Standards Commissioner for not accepting the recommendation(s).

164.17.2 Provide the applicant, within 14 (fourteen) calendar days, with written reasons for not accepting the recommendation(s).

164.18 If the head of service (in person) or the director general (in person) as the delegate of the head of service does not accept any one of the recommendation(s) of the Public Sector Standards Commissioner under subclause 164.15, the Public Sector Standards Commissioner will report on this outcome.

165.RIGHT OF EXTERNAL REVIEW

165.1 The applicant, or the applicant's union or other employee representative on the employee's behalf, may seek a review of a decision or action under subclause 164.12 or subclause 164.16 by an external tribunal or body, including the FWC.

165.2 The FWC is empowered to resolve the matter in accordance with the powers and functions set out in clause 152 of this Agreement. The decision of the FWC is binding, subject to any rights of appeal against the decision to a Full Bench of the FWC in accordance with subclause 152.16.

Section T Appeal Mechanism for misconduct, underperformance and other matters

166. OBJECTIVE AND APPLICATION

166.1 This Section sets out an appeal mechanism for an employee where the employee (referred to in this Section as the "appellant") is not satisfied with the outcome of decisions described in the following clause.

166.2 The head of service must nominate a person, or position, to be the Convenor of Appeals ("the Convenor").

166.3 This appeal mechanism will apply to all the following decisions:

166.3.1 Decisions to suspend an employee without pay under Section 139.2.4 of this Agreement.

166.3.2 Decisions relating to findings of misconduct under clause 141, provided that such an appeal can only be made after a decision about disciplinary action under clause 142 has been made, except a decision to terminate the employee's employment.

166.3.3 Decisions to take disciplinary action under subclause 142.1, of this Agreement except a decision to terminate the employee's employment.

166.3.4 Decisions to take underperformance action under subclause 147.17 of this Agreement, except a decision to terminate the employee's employment.

166.3.5 Decisions taken in relation to employee's eligibility for benefits under clauses 180 of this Agreement, and the amount of such benefits, the amount payable by way of income maintenance under clause 184, and the giving of a notice of involuntary redundancy under clause 183.

166.3.6 Any other decision that is subject to appeal under the PSM Act.

166.4 In relation to appeals about misconduct findings and disciplinary action in accordance with subclauses 166.3.2 and 166.3.3, only one application for appeal can be made in relation to the same misconduct matter and the application needs to state whether the application relates to:

166.4.1 The finding of misconduct under clause 141.

166.4.2 The disciplinary action under clause 142.

166.4.3 Both the finding of misconduct under clause 141 and the disciplinary action under clause 142.

166.5 An employee may have an entitlement to bring an action under the FW Act in respect of any termination of employment under this Agreement. This will be the sole right of review of such an action.

167.INITIATING AN APPEAL

167.1 The appellant, or the appellant's union or other employee representative on the appellant's behalf, may initiate an appeal under these procedures by making an application to the Convenor in accordance with all of the following:

167.1.1 It is in writing.

167.1.2 It describes the decision or action taken or to be taken, the reasons for the application and the outcome sought.

167.1.3 It is received by the Convenor within 14 (fourteen) calendar days of being notified, or the appellant becoming aware, of the decision to take the action.

167.1.4 It seeks to appeal an appealable decision as set out in subclause 166.3.

167.2 Notwithstanding any other provisions in this Section, the Convenor has the authority to dismiss an appeal if the appellant obstructs, unreasonably delays or fails to co-operate with the process.

168.INDEPENDENT APPEAL MEMBERS

168.1 The public sector standards commissioner must keep a list of approved independent appeal members.

168.2 Where an application is received by the Convenor in accordance with the requirements of subclause 167.1 and 167.2 the Convenor must select a person from the approved list of independent appeal members to conduct a single member determinative appeal.

169.POWERS AND ROLE OF THE INDEPENDENT APPEAL MEMBER

169.1 In considering an application, the independent appeal member must have due regard to the principles of natural justice and procedural fairness. Proceedings of the appeal are to be conducted as quickly as practicable and consistent with a fair and proper consideration of the issues.

169.2 The Convenor must invite the appellant to have a support person, who may be the appellant's union or other employee representative, present at any meetings held between the independent appeal member and the appellant and must allow reasonable opportunity for this to be arranged.

169.3 The independent appeal member must be provided with all relevant information and evidence that was available to the decision-maker in the making of the original decision or in taking the original action.

169.4 The independent appeal member has the discretion to decide not to conduct a review of the appeal application, or, if it has commenced reviewing the application, to decide not to proceed further if the independent appeal member believes that any of the following apply:

169.4.1 The application is frivolous, vexatious, or not made in good faith.

169.4.2 The appellant making the appeal may apply to another person or authority about the application who may more appropriately deal with the application.

169.4.3 Further review of the application is not warranted.

Conducting and Appeal

169.5 Where the independent appeal member determines that an application for appeal should proceed, the independent appeal member will conduct a procedural review on the papers provided under subclause 169.3 to determine whether all of the following apply:

169.5.1 It was open to the head of service to take the action that they did.

169.5.2 The principles of procedural fairness and natural justice were complied with in taking the original action or decision.

169.5.3 The final decision of the head of service and/or the Public Sector Standards Commissioner was appropriate in all of the circumstances.

169.6 Where the independent appeal member is satisfied that a fundamental piece of evidence was not considered in the original process, the independent appeal member may request that the Convenor refer the matter back to the head of service and/or Public Sector Standards Commissioner for further investigation.

169.7 The head of service or Public Sector Standards Commissioner, after considering the referral from the Convenor under subclause 169.6 must do one of the following:

169.7.1 As soon as possible, arrange for a further investigation to be conducted, in line with the referral of the Convenor, and will provide any further information, evidence or outcomes of the further investigation to the Appeal Panel in order that they may complete their review.

169.7.2 Provide written reasons to the Appeal Panel, within 14 (fourteen) calendar days, for not accepting their referral for further investigation.

169.8 After reviewing any application under this Section, the independent appeal member will, subject to subclause 169.6, make a determination of the appeal and do one of the following:

169.8.1 Confirm the original decision.

169.8.2 Vary the original decision.

169.8.3 Prescribe that other action be taken.

169.9 The independent appeal member must provide a report to the Public Sector standards Commissioner and the head of service which must include the determination and the reasons for the determination. A copy of the report must also be provided to the appellant.

170. COSTS

170.1 The Territory are not liable for any costs associated with representing an applicant in these procedures.

171. RIGHT OF EXTERNAL REVIEW

171.1 The employee or the employee's union or other representative on the employee's behalf, may seek a review by FWC of a decision under subclause 169.8.

171.2 The FWC will be empowered to resolve the matter in accordance with the powers and functions set out in clause 152 of this Agreement. The decision of the FWC will be binding subject to any rights of appeal against the decision to a Full Bench in accordance with subclause 152.16.

Section U Appeal and Process Reviews of certain recruitment decisions

172. APPLICATION

172.1 Under this Section, procedures are established for officers to seek a review of recruitment processes or appeal certain recruitment decisions.

172.2 These procedures for appeals and reviews account for the principles of procedural fairness and natural justice in this context.

172.3 For the purposes of this Section, an action includes a decision and a refusal or failure to make a decision.

172.4 Decisions made by Joint Selection Committees in accordance with subclause 54 cannot be reviewed or appealed.

173. APPEALS ABOUT PROMOTIONS AND TEMPORARY TRANSFER TO HIGHER OFFICE

173.1 The head of service must nominate a person, or position, to be the Convenor of Appeals ("the Convenor"), which may or may not be the same person, or position, nominated under subclause 166.2.

173.2 This appeal mechanism will apply to both of the following:

173.2.1 Decisions about promotion or temporary transfer to a higher office or role (for periods in excess of 6 (six) months) affecting the officer where the officer was an applicant for the position, except decisions made on the unanimous recommendation of a joint selection committee (see PSM Act 1994 and PSM Standards);

173.2.2 Decisions to promote an officer after acting for a period of 12 (twelve) months or more in a position at or below RN/RM Level 2 (or equivalent classification).

173.3 For the purposes of subclause 173.2, an appeal may only be made in relation to promotions or temporary transfer to a higher office or role where the pay applicable is any classification with a maximum pay that is less than the minimum pay of a classification equivalent to a RN/RM Level 3 classification, or unless otherwise specified in the PSM Act. For positions above RN/RM Level 2 (or equivalent classification) an application may be made for a process review in accordance with clause 174 of this Agreement.

173.4 For the purposes of paragraph 173.2.2, any suitably qualified officer may appeal the decision.

173.5 For appeals concerning promotion or transfer to a higher office or role under subclause 173.2, the only ground on which the independent appeal member can review the decision is that the officer making the appeal would be more efficient in performing the duties of the position than the person promoted or selected for temporary transfer.

Initiating an Appeal

173.6 An officer ("the appellant" for the purposes of this Section) or the appellant's union or other employee representative on the appellant's behalf, may initiate an appeal under these procedures by making an application to the Convenor in accordance with all of the following:

173.6.1 It is in writing.

173.6.2 It is received by the Convenor within 14 (fourteen) calendar days of the decision to take the action being notified in the Gazette For decisions relating to the temporary transfer to a higher office or role for periods in excess of 6 months that are not required to be notified in the gazette, it is received by the Convenor within 14 calendar days of the applicant being notified or becoming aware of the outcome of the process.

173.6.3 It seeks to appeal an appealable decision as set out in subclause 173.2.

173.7 Notwithstanding any other provisions in this Section, the Convenor has the authority to dismiss an appeal if the appellant obstructs, unreasonably delays or fails to co-operate with the process.

Independent Appeal Members

173.8 Where an application is received by the Convenor in accordance with the requirements set out in subclause 173.6, subject to subclause 173.7 the Convenor must select a person from the approved list of independent appeal members held by the Public Sector Standards Commissioner to conduct a single member determinative appeal.

Independent Appeal Member Recommendations

173.9 After reviewing an application about promotion or temporary transfer to a higher office or role affecting the appellant, the independent appeal member must recommend to the head of service to do one of the following with regard to the decision that is the subject of the application:

173.9.1 Confirm the original decision.

173.9.2 Vary the original decision.

173.9.3 Prescribe that other action be taken.

173.10 The head of service must inform the appellant and affected parties in writing of their decision and the reasons for the decision, within 28 (twenty-eight) calendar days.

174. PROCESS REVIEW

174.1 An officer may seek a review of the process leading up to a decision about any of the following:

174.1.1 Decisions that another officer perform the duties of a higher office or role (with a pay less than that of a RN/RM Level 3 or equivalent classification) for periods greater than 6 (six) months if the vacancy was advertised.

174.1.2 Decisions to promote or not promote an officer.

174.1.3 Decisions to appoint or not appoint an employee, or to engage or not engage an employee, on a temporary contract.

174.1.4 Decisions to transfer, or not to transfer, an employee.

174.1.5 Decisions under the PSM Standards to promote an officer after acting for a period of 12 (twelve) months or more in a position above RN/RM Level 2 or equivalent classification.

174.2 The findings of a review under this clause do not alter the outcome of the original decision, but may be used to inform similar processes conducted in the future, or address any failings on the part of employees involved in the process under review.

Initiating a Review

174.3 An officer ("the applicant" for the purposes of this Section), or the applicant's union or other employee representative on the applicant's behalf, may initiate a review under these procedures by making an application to the head of service in accordance with all of the following:

174.3.1 It is in writing.

174.3.2 It describes how the applicant believes the process was not conducted properly, and provides reasons for this.

174.3.3 It is received by the head of service within 14 (fourteen) calendar days of the employee being advised of the decision, or becoming aware of the decision.

174.3.4 It seeks to review a reviewable process as set out in subclause 174.1.

Conducting a Process Review

174.4 Subject to subclause 174.3 the head of service must arrange for an application to be reviewed by an independent person (the reviewer) who may be one of the following:

174.4.1 A suitably skilled person who was not involved in the original action.

174.4.2 A person chosen from a panel of providers.

174.5 The independent reviewer must be provided with all relevant information and evidence that was available to the decision-maker in the making of the original decision.

174.6 The reviewer must make an assessment whether relevant processes contained in this Agreement, the PSM Act and PSM Standards were followed, and to what extent.

174.7 After reviewing the information and evidence provided under subclause 174.5, the independent reviewer will provide a report to the head of service, which does one of the following:

174.7.1 Confirms that the process was conducted in accordance with the provisions of this Agreement, the PSM Act, and PSM Standards.

174.7.2 Finds that there were deficiencies in the process; such findings will be supported by reasons and the report may include recommendations for how similar processes may be conducted in future.

Section V Redeployment/Redundancy

175. DEFINITIONS OF 'EXCESS OFFICER' AND 'POTENTIALLY EXCESS OFFICER'

175.1 'Excess officer' means an officer who has been notified in writing by the head of service that they are excess to an ACTPS Directorate's requirements because one of the following applies:

175.1.1 the officer is included in a class of officers employed in an ACTPS Directorate, which class comprises a greater number of officers than is necessary for the efficient and economical working of the Directorate.

175.1.2 the services of the officer cannot be effectively used because of technological or other changes in the work methods of the relevant Directorate or changes in the nature, extent or organisation of the functions of the relevant Directorate.

175.2 'Potentially excess officer' means an officer who is formally notified they are likely to become an excess officer in a foreseeable space of time.

176. APPLICATION

176.1 The ACTPS recognises the need to make the most effective use of the skills, abilities and qualifications of its officers in a changing environment. When positions become excess, the relevant Directorate must seek to redeploy permanent officers within the directorate or the ACTPS in order to avoid or minimise an excess officer situation. Should redeployment not be possible, voluntary redundancy, reduction in classification and involuntary redundancy must be considered in that order. Throughout these procedures, the relevant directorate must, where practicable, take into consideration the personal and career aspirations and family responsibilities of affected officers.

177.CONSULTATION FOR REDEPLOYMENT AND REDUNDANCY

177.1 Where it appears to the head of service that a position is likely to be either potentially excess or excess to an ACTPS Directorate's requirements, and prior to any individual officer(s) being identified, the head of service must, at the earliest practicable time, advise and discuss with the union(s) the following issues (as appropriate in each case):

177.1.1 The number and classification of officers in the part of the Directorate affected.

177.1.2 The reasons an officer is or officers are likely to be excess to requirements.

177.1.3 The method of identifying officers as excess, having regard to the efficient and economical working of the relevant Directorate and the relative efficiency of officers.

177.1.4 The number, classification, location and details of the officers likely to be excess.

177.1.5 The number and classification of officers expected to be required for the performance of any continuing functions in the part of the Directorate affected.

177.1.6 Measures that could be taken to remove or reduce the incidence of officers becoming excess.

177.1.7 Redeployment prospects for the officers concerned.

177.1.8 The appropriateness of using voluntary retirement.

177.1.9 Whether it is appropriate for involuntary retirement to be used if necessary.

177.2 The discussions under subclause 177.1 must take place over such time as is reasonable, taking into account the complexity of the restructuring and need for potential excess officer situations to be resolved quickly and must comply with the consultation requirements of clause 149. Any use of involuntary redundancy must be agreed between the head of service and the union(s) at this stage and will not be used without the written agreement of the head of service and the union(s).

177.3 The head of service must comply with the notification and consultation requirements for union(s) and Centrelink about terminations set out in the FW Act.

177.4 The head of service must, at the first available opportunity, inform all officers likely to be affected by an excess staffing situation of the terms and operation of this Section.

177.5 Where a redundancy situation affects a number of officers engaged in the same work at the same level, elections to be made voluntarily redundant may be invited.

177.6 Nothing in this Agreement prevents the head of service inviting officers who are not in a redundancy situation to express interest in voluntary redundancy where such redundancies would permit the redeployment of potentially excess and excess officers who do not wish to accept voluntary redundancy.

178. NOTIFICATION

178.1 Except where a lesser period is agreed between the head of service and the officer, the officer must not, within 1 (one) month after the union(s) has been advised under subclause 177.1, be invited to volunteer for retirement nor be advised in writing in accordance with subclause 178.2 that the officer is excess to the relevant Directorate's requirements.

Potentially Excess Officers

178.2 At the point where individual employees can be identified, the head of service must advise the officer(s) that a position(s) is likely to become excess and that the employee may be affected. In that advice the officer(s) must also be advised that the officer may be represented by a union or other employee representative at subsequent discussions. The head of service must discuss with the officer(s) and, where chosen, the union or other employee representative(s) the issues dealt with in subclause 177.1 (Consultation for Redeployment and Redundancy), 177.1.1 through 177.1.9 (as appropriate in each case).

178.3 Potentially excess officers who have not been invited to be voluntarily retired, or who have declined to elect to be voluntarily retired, are subject to the redeployment provisions in clause 179.

Excess Officers

178.4 Subject to subclause 178.1 the notification of an officer's excess status may only be given when the consultation required under subclause 177.1 (Consultation for Redeployment and Redundancy) and the consultation required under subclause 178.2 has taken place. Following such consultation, where the head of service is aware that an officer is excess, the head of service will advise the officer in writing.

178.5 An excess officer is subject to the redeployment provisions in clause 179.

178.6 An excess officer who is offered a voluntary redundancy, but who does not accept the offer, is entitled to a 7 (seven) month retention period in accordance with clause 181.

179. REDEPLOYMENT

179.1 Redeployment of potentially excess and excess officers must be in accordance with the officer's experience, ability and, as far as possible, the officer's career aspirations and wishes.

179.2 Once an officer has been notified that they are potentially excess or excess in accordance with subclause 178.2 and subclause 178.3 respectively, the officer must be registered by their directorate on the Redeployment Register.

179.3 The head of service must consider a potentially excess or excess officer from other ACT Public Service agencies in isolation for vacancies at the officer's substantive level.

179.4 An excess officer (or potentially excess) has absolute preference for transfer to positions at the officer's substantive level and must be considered in isolation from other applicants for any vacancy which is to be advertised for permanent filling or for a temporary period of six months or more within the ACTPS. For the purposes of this clause substantive level means the same classification or an alternative equivalent classification in another classification stream where the maximum pay does not exceed the top increment of the officer's current classification by more than 10%. For clarity this does not allow for the transfer of an officer within the same classification stream e.g. a SOGB to transfer to a SOGA.

179.5 Under this clause an excess officer must be given preference over a potentially excess officer.

179.6 An excess officer need only be found suitable, or suitable within a reasonable time (generally three to six months) to be transferred to a position in accordance with subclause 179.4.

179.7 The head of service must make every effort to facilitate the placement of an excess officer within the service.

179.8 The head of service must arrange reasonable training that would assist the excess officer's prospects for redeployment.

179.9 The head of service must provide appropriate internal assistance and career counselling and assist as necessary with the preparation of job applications.

180. VOLUNTARY REDUNDANCY

180.1 Subject to subclause 178.1, at the completion of the discussions in accordance with clause 177, the head of service may invite officers to elect to be made voluntarily redundant under this clause.

180.2 Where the head of service invites an officer to elect to be made voluntarily redundant, the officer must be provided a consideration period of a maximum of 1 (one) month from the date of the offer in which to advise the head of service of the officer's election, and the head of service must not give notice of redundancy before the end of the 1 (one) month consideration period.

180.3 To allow an officer to make an informed decision on whether to submit an election to be made voluntarily redundant, the head of service must provide the officer with advice on all of the following:

180.3.1 The sums of money the officer would receive by way of severance pay, pay instead of notice, and paid up leave credits.

180.3.2 The career transition/development opportunities within the ACTPS.

180.4 The officer should also seek independent advice on all of the following:

180.4.1 The amount of accumulated superannuation contributions.

180.4.2 The options open to the officer concerning superannuation.

180.4.3 The taxation rules applicable to the various payments.

180.5 The relevant Directorate must supplement the costs of independent, accredited financial counselling incurred by each officer who has been offered voluntary redundancy up to a maximum of $1000. The head of service must authorise the accredited financial counsellors to invoice the relevant Directorate directly.

180.6 Subject to subclause 180.6, where the head of service approves an election to be made redundant and gives the notice of retirement in accordance with the PSM Act, the period of notice will be 1 (one) month, or 5 (five) weeks if the officer is over 45 years old and has completed at least 2 (two) years' continuous service.

180.7 Where the head of service so directs, or the officer so requests, the officer will be retired at any time within the period of notice under subclause 180.5, and the officer must be paid in lieu of pay for the unexpired portion of the notice period.

Severance Benefit

180.8 An officer who elects to be made redundant in accordance with this clause is entitled to be paid the greater of the following amounts:

180.8.1 An amount equal to 2 (two) weeks of the officer's pay for each completed year of continuous service, plus a pro-rata payment for completed months of continuous service since the last year of continuous service. The maximum sum payable under this paragraph is 48 (forty-eight) weeks' pay.

180.8.2 26 (twenty-six) weeks' pay.

180.9 For the purpose of calculating any payment instead of notice or part payment, the pay an officer would have received had they been on annual leave during the notice period, or the unexpired portion of the notice period as appropriate, is used.

180.10 For the purpose of calculating payment under subclause 180.7 all of the following apply:

180.10.1 If an officer has been acting in a higher position for a continuous period of at least 12 (twelve) months immediately preceding the date on which they receive a notice of retirement, the pay level is the officer's pay in the higher position at that date.

180.10.2 If an officer has, during 50% or more of pay periods in the 12 (twelve) months immediately preceding the date on which they receive a notice of retirement, been paid a loading for shift work or are paid a composite pay, the weekly average amount of shift loading received during that 12 (twelve) month period is counted as part of 'weeks pay';

180.10.3 The inclusion of other allowances, being allowances in the nature of pay, will be subject to the approval of the head of service.

180.10.4 Redundancy pay will be calculated on a proportionate basis where the employee has worked part-time hours during the period of service and the employee has less than 24 years full-time service.

181. RETENTION PERIOD FOR EXCESS OFFICERS

181.1 An excess officer who does not accept voluntary redundancy is entitled to a 7 (seven) month retention period.

181.2 The retention period will commence on one of the following days:

181.2.1 On the day the officer is advised in writing by the head of service that the officer is an excess officer.

181.2.2 In the case of an officer who is invited by the head of service to submit an election to be retired 1 (one) month after the day on which the election is invited.

181.3 At the end of the retention period, if the officer has not been redeployed, the officer must be offered a choice of the following:

181.3.1 A suitable vacant position at the officer's substantive level, to be transferred to in accordance with the PSM Act.

181.3.2 Retirement from the ACTPS with a severance payment which is the equivalent to what the officer would have received had the officer accepted the voluntary redundancy, less the amount of salary that the officer received during the retention period.

181.4 To be transferred to a suitable position in accordance with subclause 181.3.1 an excess officer need only be found suitable, or suitable within a reasonable time (generally three to six months) to be transferred to the position.

182. REDUCTION IN CLASSIFICATION

182.1 Where efforts to redeploy at level have failed and where the officer has refused the offer of voluntary redundancy, the head of service with the agreement of the officer may reduce the officer in classification and place the officer in a specific position.

182.2 Reduction in classification is to occur in accordance with the PSM Act.

183. INVOLUNTARY RETIREMENT

183.1 An excess officer may be made involuntarily redundant, subject to the agreement of the union(s).

183.2 This clause applies to excess officers who are not any of the following:

183.2.1 Retired with consent.

183.2.2 Redeployed to another position.

183.2.3 Reduced in classification.

183.3 An officer may be involuntarily retired subject to the agreement of the union(s). Such agreement must not be withheld if; during or after 6 (six) months from the date the officer was declared excess, the officer does one of the following:

183.3.1 Does not accept a transfer in accordance with the PSM Act

183.3.2 Refuses to apply for, or be considered for, a position for which the officer could reasonably be expected to be qualified to perform, either immediately or in a reasonable time.

183.4 Where the head of service believes that there is insufficient productive work available for an excess officer during the retention period, the head of service may make the officer involuntarily redundant before the end of the retention period.

183.5 An excess officer must not be involuntarily retired if they have not been invited to elect to be voluntarily retired with benefits, or have made such an election and the head of service refuses to approve it.

183.6 Where the head of service involuntarily retires an excess officer, the officer must be given no less than 4 (four) weeks' notice of the action proposed; or 5 (five) weeks if the officer is over 45 years old and has completed at least 2 (two) years of continuous service. This notice period must, as far as practicable, be concurrent with the 7 (seven) month retention period.

184. INCOME MAINTENANCE PAYMENT

184.1 An officer who has been receiving a higher rate of pay for a continuous period of at least 12 (twelve) months and who would have continued to receive that pay rate except for the excess officer declaration must be considered to have the higher pay rate.

184.2 This pay is known as the income maintenance pay. The income maintenance pay, where applicable, is used for the calculation of all conditions and entitlements under this clause.

184.3 The income maintenance pay exists for the retention period or the balance of the retention period.

184.4 If an officer is involuntarily retired, the entitlements, including paying out the balance of the retention periods, where applicable, must be calculated on the income maintenance pay rate. If an officer is involuntarily retired during the retention periods the officer's date of retirement is the date that the officer would have retired after the retention period ceased, not the date of the involuntary retirement. All final entitlements must be calculated from the latter date.

184.5 If an officer is involuntarily reduced in classification during the retention period, the officer is entitled to be paid at the income maintenance pay rate for the balance of the retention period.

184.6 All allowances in the nature of pay must be included in determining the income maintenance pay rate.

185. LEAVE AND EXPENSES TO SEEK EMPLOYMENT

185.1 At any time after the officer has been advised under subclause 178.1 of being potentially excess, the officer is entitled to paid leave to seek alternative employment. Leave granted under this clause is for periods of time to examine the job and to attend interviews. Reasonable travelling time must also be granted.

185.2 The officer is entitled to any reasonable fares and other incidental expenses if these are not met by the prospective employer.

186. USE OF PERSONAL LEAVE

186.1 The use of personal leave must not extend the retention periods of an officer unless these periods are supported by a medical certificate or are of such a nature as to make the seeking of employment during certificated personal leave inappropriate.

186.2 An officer who is receiving income maintenance must have those payments continued during certified personal leave periods of up to a total of 6 (six) months.

187. APPEALS

187.1 Without affecting the officer's rights under the Fair Work Act, an excess officer has the right under Section T (Appeal Mechanism) to appeal any decision taken in relation to the officer's eligibility for benefits under clauses 180 (Voluntary Redundancy) and 183 (Involuntary Redundancy), the amount of such benefits, or the amount payable by way of income maintenance under clause 184 (Income Maintenance Payment).

187.2 An excess officer who received a notice of involuntary redundancy under clause 183.5 has the right under Section T to appeal the decision

188. AGREEMENT NOT TO PREVENT OTHER ACTION

188.1 Nothing in this Agreement prevents the reduction in classification of an officer or the retirement of an officer as a result of action relating to discipline, invalidity, inefficiency or loss of essential qualifications.

189. RE-ENGAGEMENT OF PREVIOUSLY RETRENCHED OFFICERS

189.1 Despite the PSM Act, officers who are involuntarily retired from the ACTPS can be engaged at any time by the head of service.

189.2 Officers who elect to be made voluntarily redundant under clause 180 (Voluntary Redundancy) cannot be re-engaged in the ACTPS until a period has expired, which is equivalent in weeks and days to the termination payment received under subclause 180.7 or 181.3.2, except with the written consent of the head of service.

Section W Medically Unfit Staff

190. TRANSFER OF MEDICALLY UNFIT STAFF

190.1 This clause does not apply to casual employees.

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

190.3 Despite the provisions of section 27 of the PSM Act, a medically unfit employee may, by agreement with the employee, be transferred to any position within the employee's current skill level and experience, at either their substantive classification or equivalent classification. If the employee moves into an alternative classification stream, they may only be transferred to a classification that has a maximum salary which does not vary from the top increment of the employee's substantive classification by more than 10%, and penalties and allowances attached to the substantive position will not be taken into consideration in this calculation. Penalties and allowances may only continue to be paid where applicable in the new position. For clarity this provision allows transfer between alternate classification streams, but does not allow for the transfer of an officer to a higher classification within the same classification stream e.g. a SOG B transfer to a SOG A. An employee will not be redeployed in accordance with subclause 190.3 unless there is no suitable vacant position at the employee's substantive classification within their Directorate.

190.4 An employee must not be redeployed in accordance with subclause 190.3 unless there is no suitable vacant position at the employee's substantive classification within their directorate.

190.5 In considering any proposed transfer under this clause, the employee may be represented by the employee's union or other employee representative.

Section X Other Employment Matters

191. LEGAL SUPPORT

191.1 Where an employee is directed or legally obliged to take part in legal proceedings arising directly from the lawful discharge of their duties the ACTPS will provide support, assistance and representation, as necessary, at no cost to the employee.

191.2 Under this Section, legal proceedings are those occurring in relation to:

191.2.1 coronial inquests;

191.2.2 medical/professional malpractice or medical/professional negligence allegations; or

191.2.3 formal industrial and employment matter proceedings other than those instituted by the employee or against the employee by the Government.

191.3 However, it is agreed that where an employee is involved in legal proceedings as a result of their own misconduct or as a result of criminal charges being laid against them, the ACTPS does not have a responsibility to provide support or assistance to the employee.

192. IT RESOURCES

192.1 The Directorates are committed to equitable access to IT resources and training to enable employees to function within the program and to support efficient workflow.

192.2 The Directorates will consult with employees and their nominated representatives on any proposed changes to information technology including any proposed changes to hardware and software. This consultation will incorporate a staff impact analysis and planned training programs.

193. CAR PARKING

193.1 For the life of this Agreement, the Directorates will continue to provide free car parking for employees at The Canberra Hospital and North Canberra Hospital.

193.2 The Directorates will review the implications of the current parking arrangements for employees at the community health centres over the life of the agreement.

194. ACCESS TO GOVERNMENT MOTOR VEHICLES TO MEET OPERATIONAL NEED FOR CLIENT SERVICE DELIVERY

194.1 The use of ACT Government vehicles is not an entitlement; rather access to ACT Government vehicles will be made available to employees in accordance with official policy, to facilitate the provision of services to clients of the Health Directorate.

194.2 The ACTPS will consult with employees and their union on improving the equity issues when deploying official vehicles.

194.3 If an ACTPS employee does not have access to an ACT Government motor vehicle due to a change in their work allocation on that day(s) and needs to deliver a client service then, the manager/supervisor will ensure that the employee can travel to the allocated place of work. Alternatively the manager/supervisor will allocate sufficient taxi vouchers to ensure the employee can return to their base or initial place of work.

194.4 The head of service may approve use of own vehicle in accordance with PSM Standards.

195. TEMPORARY RESIDENTIAL ACCOMMODATION ON CAMPUS

195.1 Subject to availability, and with genuine endeavour, the Directorates will continue to provide temporary residential accommodation on campus for employees on the following basis:

195.1.1 new recruits while waiting to finalise alternative accommodation; and

195.1.2 overnight or weekly accommodation for employees who live in a remote location whilst rostered to work and/or on-call.

SCHEDULE 1 NURSING AND MIDWIFERY CLASSIFICATIONS AND RATES OF PAY

CLASSIFICATION	Pay Rates as at 9.6.22	$1,750 from 05/01/2023	1% from 08/06/2023	$1,750 from 07/12/2023	1.50% from 06/06/2024	1% + $1,500 from 05/12/2024	1% from 05/06/2025	1% + $1,000 from 04/12/2025
Assistant in Nursing	$55,927	$57,677	$58,254	$60,004	$60,904	$63,013	$63,643	$65,279
	$57,820	$59,570	$60,166	$61,916	$62,844	$64,973	$65,623	$67,279
Enrolled Nurse Level 1								
	$65,934	$67,684	$68,361	$70,111	$71,163	$73,374	$74,108	$75,849
	$67,063	$68,813	$69,501	$71,251	$72,320	$74,543	$75,289	$77,041
	$68,188	$69,938	$70,637	$72,387	$73,473	$75,708	$76,465	$78,230
	$69,316	$71,066	$71,777	$73,527	$74,630	$76,876	$77,645	$79,421
	$70,443	$72,193	$72,915	$74,665	$75,785	$78,043	$78,823	$80,611
Enrolled Nurse Level 2								
	$71,574	$73,324	$74,057	$75,807	$76,944	$79,214	$80,006	$81,806

Undergraduate Student Nurse	$59,679	$61,429	$62,043	$63,793	$64,750	$66,898	$67,567	$69,242
Registered Nurse Level 1	$72,698	$74,448	$75,192	$76,942	$78,097	$80,378	$81,181	$82,993
	$75,522	$77,272	$78,045	$79,795	$80,992	$83,302	$84,135	$85,976
	$78,631	$80,381	$81,185	$82,935	$84,179	$86,521	$87,386	$89,260
	$82,326	$84,076	$84,917	$86,667	$87,967	$90,346	$91,250	$93,162
	$86,024	$87,774	$88,652	$90,402	$91,758	$94,175	$95,117	$97,068
	$89,718	$91,468	$92,383	$94,133	$95,545	$98,000	$98,980	$100,970
	$93,413	$95,163	$96,115	$97,865	$99,333	$101,826	$102,844	$104,873
	$97,112	$98,862	$99,851	$101,601	$103,125	$105,656	$106,712	$108,780
Registered Nurse Level 2	$100,957	$102,707	$103,734	$105,484	$107,066	$109,637	$110,733	$112,841
	$102,973	$104,723	$105,770	$107,520	$109,133	$111,724	$112,842	$114,970
	$104,985	$106,735	$107,802	$109,552	$111,196	$113,808	$114,946	$117,095
	$107,000	$108,750	$109,838	$111,588	$113,261	$115,894	$117,053	$119,223
Registered Nurse Level 3 Grade 1	$115,743	$117,493	$118,668	$120,418	$122,224	$124,946	$126,196	$128,458
	$118,124	$119,874	$121,073	$122,823	$124,665	$127,412	$128,686	$130,973
	$120,506	$122,256	$123,479	$125,229	$127,107	$129,878	$131,177	$133,489

Registered Nurse Level 3 Grade 2	$130,846	$132,596	$133,922	$135,672	$137,707	$140,584	$141,990	$144,410
Nurse Practitioner	$140,121	$141,871	$143,290	$145,040	$147,215	$150,187	$151,689	$154,206
Registered Nurse Level 4 Grade 1	$130,846	$132,596	$133,922	$135,672	$137,707	$140,584	$141,990	$144,410
Registered Nurse Level 4 Grade 2	$140,121	$141,871	$143,290	$145,040	$147,215	$150,187	$151,689	$154,206
Registered Nurse Level 4 Grade 3	$149,388	$151,138	$152,649	$154,399	$156,715	$159,783	$161,380	$163,994
Registered Nurse Level 5 Grade 1	$130,846	$132,596	$133,922	$135,672	$137,707	$140,584	$141,990	$144,410
Registered Nurse Level 5 Grade 2	$140,121	$141,871	$143,290	$145,040	$147,215	$150,187	$151,689	$154,206
Registered Nurse Level 5 Grade 3	$149,388	$151,138	$152,649	$154,399	$156,715	$159,783	$161,380	$163,994

Registered Nurse Level 5 Grade 4	$159,986	$161,736	$163,353	$165,103	$167,580	$170,756	$172,463	$175,188
Registered Nurse Level 5 Grade 5	$178,535	$180,285	$182,088	$183,838	$186,595	$189,961	$191,861	$194,780
Registered Nurse Level 5 Grade 6	$197,084	$198,834	$200,822	$202,572	$205,611	$209,167	$211,259	$214,371
Undergraduate Student Midwife	$59,679	$61,429	$62,043	$63,793	$64,750	$66,898	$67,567	$69,242
Midwife (RM) Level 1	$72,698	$74,448	$75,192	$76,942	$78,097	$80,378	$81,181	$82,993
	$75,522	$77,272	$78,045	$79,795	$80,992	$83,302	$84,135	$85,976
	$78,631	$80,381	$81,185	$82,935	$84,179	$86,521	$87,386	$89,260
	$82,326	$84,076	$84,917	$86,667	$87,967	$90,346	$91,250	$93,162
	$86,024	$87,774	$88,652	$90,402	$91,758	$94,175	$95,117	$97,068
	$89,718	$91,468	$92,383	$94,133	$95,545	$98,000	$98,980	$100,970
	$93,413	$95,163	$96,115	$97,865	$99,333	$101,826	$102,844	$104,873
	$97,112	$98,862	$99,851	$101,601	$103,125	$105,656	$106,712	$108,780
Midwife (RM) Level 2	$100,957	$102,707	$103,734	$105,484	$107,066	$109,637	$110,733	$112,841

	$102,973	$104,723	$105,770	$107,520	$109,133	$111,724	$112,842	$114,970
	$104,985	$106,735	$107,802	$109,552	$111,196	$113,808	$114,946	$117,095
	$107,000	$108,750	$109,838	$111,588	$113,261	$115,894	$117,053	$119,223
Midwife (RM) Level 3 Grade 1	$115,743	$117,493	$118,668	$120,418	$122,224	$124,946	$126,196	$128,458
	$118,124	$119,874	$121,073	$122,823	$124,665	$127,412	$128,686	$130,973
	$120,506	$122,256	$123,479	$125,229	$127,107	$129,878	$131,177	$133,489
Midwife (RM) Level 3 Grade 2	$130,846	$132,596	$133,922	$135,672	$137,707	$140,584	$141,990	$144,410
Midwife (RM) Level 4 Grade 1	$130,846	$132,596	$133,922	$135,672	$137,707	$140,584	$141,990	$144,410
Midwife (RM) Level 4 Grade 2	$140,121	$141,871	$143,290	$145,040	$147,215	$150,187	$151,689	$154,206
Midwife (RM) Level 4 Grade 3	$149,388	$151,138	$152,649	$154,399	$156,715	$159,783	$161,380	$163,994
Midwife (RM) Level 5 Grade 1	$130,846	$132,596	$133,922	$135,672	$137,707	$140,584	$141,990	$144,410
Midwife (RM) Level 5 Grade 2	$140,121	$141,871	$143,290	$145,040	$147,215	$150,187	$151,689	$154,206
Midwife (RM) Level 5 Grade 3	$149,388	$151,138	$152,649	$154,399	$156,715	$159,783	$161,380	$163,994

Midwife (RM) Level 5 Grade 4	$159,986	$161,736	$163,353	$165,103	$167,580	$170,756	$172,463	$175,188
Midwife (RM) Level 5 Grade 5	$178,535	$180,285	$182,088	$183,838	$186,595	$189,961	$191,861	$194,780
Midwife (RM) Level 5 Grade 6	$197,084	$198,834	$200,822	$202,572	$205,611	$209,167	$211,259	$214,371

Schedule 2 Attraction and retention incentives

1. Introduction

1.1. This Section ('the Framework') sets out the provisions that apply to Attraction and Retention Incentives (ARIns).

1.2. An ARIn may only be agreed and approved in accordance with this Framework.

1.3. ARIns apply to all employee types employed in classifications covered by this Agreement.

1.4. Subject to the terms of this Framework, it is a matter for the director-general's sole discretion (in consultation with the head of service) as to whether an ARIn will be offered or continued.

1.5. In assessing whether an ARIn should be offered or continued to an employee, the director-general will consider the consequences the provision of the ARIn may have on the Territory's ability to recruit and/or retain employees to Executive positions.

1.6. In this Framework, unless the contrary intention appears:

1.6.1. 'Attraction and Retention Incentives' (ARIns) means additional pay and/or conditions of employment, provided in recognition of the additional requirements of a position that are set out in paragraph 2.3 and recorded through a written agreement between the director-general and the employee occupying the position to which the ARIn is to apply.

1.6.2. 'Base rate of pay' in relation to an employee is the rate of pay payable under Annex A of this Agreement for the employee's classification on the date the ARIn commences, or for a review, on the date that the ARIn is approved, or renewed, following a review.

1.6.3. 'Director-general' means the person occupying the position of director-general of the relevant directorate, or their nominated delegate.

1.6.4. 'Group ARIn' means an ARIn approved by the Director-General, after consideration by the head of service, for a number of related positions with the same classification performing an identical function in a directorate, which is applied to the employees in those positions.

1.6.5. 'Head of service' means the person occupying the position and exercising the powers of the head of service.

1.6.6. A reference to 'position, employee, occupant or union' includes 'positions, employees, occupants or unions'.

1.6.7. 'Relevant market data' may include but is not limited to job sizing assessments, recruitment experience, market surveys and job advertisements.

1.6.8. The 'rates of pay component' of an ARIn refers to enhanced pay rates as per subparagraph 2.4.1 only and does not include any additional lump sum or periodic component of an ARIN or any additional provision approved per subparagraph 2.4.2 or subparagraph 2.4.3.

2. ARIn Requirements

2.1. The terms and conditions of employment of this Agreement will continue to form the basis for employees covered by this Agreement. Accordingly, where an ARIn applies to an employee, the terms and conditions of the employee is a combination of both of the following:

2.1.1. the terms and conditions contained in this Agreement; and

2.1.2. the terms and conditions contained in the ARIn.

2.2. The terms and conditions of employment contained in an ARIn prevail over the terms and conditions of employment contained in this Agreement to the extent of any inconsistency.

2.3. In determining whether to offer or continue an ARIn to an employee, the director-general will have regard to all the following relevant matters:

2.3.1. whether the position is critical to the operation of the Directorate or to a business unit in the Directorate;

2.3.2. whether an employee who occupies the position requires specialised qualifications, skill set and/or experience to perform the requirements of the position;

2.3.3. whether the role and skills required by the employee who occupies the position are in high demand;

2.3.4. the level at which comparable individuals with skills and qualifications for the role are remunerated in the marketplace;

2.3.5. the difficulty and cost associated with recruiting to the position;

2.3.6. any other matter considered relevant to determining whether or not an ARIn would be appropriate in the circumstances.

2.4. An ARIn may contain:

2.4.1. enhanced pay rates;

2.4.2. enhanced superannuation contribution rates;

2.4.3. other terms and conditions of employment where the Director-General considers there is a clear, unambiguous, and exceptional need.

2.5. The terms of the ARIn instrument must contain provisions setting out

2.5.1. the expiry date of the ARIn;

2.5.2. the level of the employee's base rate of pay;

2.5.3. the pay component, any other terms and conditions of employment that are to apply under the ARIn, and the total dollar value of the ARIn;

2.5.4. the requirement that the terms and conditions of the employee will revert to the applicable rates of pay and terms and conditions of employment under this Agreement in the event the ARIn ceases to operate or is terminated; and

2.5.5. the terms of this Framework are included by reference.

3. No Overall Reduction in Terms and Conditions

3.1. An ARIn must not be agreed where it would result, when assessed as a whole, in a reduction in the overall terms and conditions of employment provided for the employee under this Agreement.

3.2. An ARIn cannot provide terms and conditions that are less favourable than the National Employment Standards or the rates of pay set out in this Agreement for the same work at the same classification level.

3.3. Where it is proposed that an ARIn will replace or reduce a condition of employment contained in this Agreement, the director-general will consult with the relevant union with coverage of the position through the Office of Industrial Relations and Workplace Strategy ('OIRWS') about the proposed change prior to the provision of a written submission to the head of service for consideration.

3.4. In consulting with the OIRWS and union in accordance with paragraph 3.3, the director-general will:

3.4.1. provide the OIRWS and union with relevant information about the position and the proposed change;

3.4.2. give the union a reasonable opportunity to consider this information and, if the union wishes, provide written views to the director-general within fourteen days; and

3.4.3. consider any views offered by the union before deciding to enter into the ARIn.

3.5. Information that the director-general provides to the union under this section will not include information that might directly or indirectly disclose the identity of the particular employee unless the employee consents to its release.

4. ARIn Requirements During a Recruitment Process

Advertising with an ARIn

4.1. Where a proposed ARIn is not within the scope of a Group ARIn, a recruitment selection process may incorporate an ARIn by advertising the position at a higher package value, comprising the relevant Agreement rate of pay plus an identified ARIn amount.

4.2. In these circumstances pre-approval of the ARIn through a Comprehensive Submission is required prior to advertising. When the ARIn is implemented (after the employee commences), a second Comprehensive Submission to the head of service is not required.

Offering an ARIn as part of a job offer

4.3. Where a proposed ARIn is not within the scope of a Group ARIn, a recruitment selection process at the offer stage may incorporate an ARIn as part of the offer of employment.

4.4. In such circumstances the recruitment material and advertisement must state the position rate of pay set out in this Agreement, and state that an ARIn may be available to the successful applicant.

4.4.1. This approach is not recommended as a better field of applicants may be attracted when a position is advertised with a higher package identified up front.

4.5. In these circumstances pre-approval of the ARIn through a Comprehensive Submission is not required prior to advertising, but if an ARIn is ultimately proposed to be offered to the successful applicant, approval is required through a Comprehensive Submission prior to the offer being made. Time for the review process to occur must be anticipated in the recruitment process.

Advertising Group ARIns

4.6. When a position to be advertised is covered by a current Group ARIn, there is no need for a further Comprehensive Submission (as it has already been completed as part of the Group ARIn approval process). As such, while the position remains covered by the scope of a Group ARIn, it will automatically apply and should be included in the advertisement.

ARIn Requirements

4.7. Where an ARIn is used as part of a recruitment process:

4.7.1. the total package (excluding superannuation) should be disclosed and disaggregated to show:

4.7.1.1. the relevant Agreement rate; and

4.7.1.2. the content of the ARIn, which is reviewable under the terms of this Agreement.

4.8. The nature of the information disclosed at the point of advertising will depend on the type of ARIn used, but applicants should be made aware the ARIn:

4.8.1. is reviewable in accordance with the ARIn Framework;

4.8.2. may be terminated, or have its value adjusted (either up or down); and

4.8.3. must continue to meet the eligibility criteria, including consideration of relevant market rates and/or changes to the operational requirements of the business unit.

5. Deeming

5.1. An ARIn that is applied to a position, and to the employee occupying the position to which the ARIn applies, which is covered by this Agreement on the day before the Agreement commenced operation will continue in accordance with the provisions of this Framework.

6. Types of ARIns

6.1. The director-general may approve an ARIn as follows.

Project ARIns

6.2. A Project ARIn requires:

6.2.1. the additional remuneration meets the criteria in paragraph 2.1 of this Framework;

6.2.2. a term no longer than 36 months; and

6.2.3. the employee's work to which the ARIn is attached is associated with the employee's role in a specified project with a finite term.

6.3. A Project ARIn cannot be renewed and will cease to operate on the date specified in the ARIn for cessation of the position's involvement in the project, or the date of completion of the project, whichever date is the earlier.

6.4. A Comprehensive Submission is required to establish a Project ARIn, but no further reviews are required.

6.5. Where required, a subsequent new Project ARIn may be offered once only. Where this occurs, a Comprehensive Submission is required.

Fixed Term ARIns

6.6. A Fixed Term ARIn requires:

6.6.1. that the additional remuneration meets the criteria in paragraph 2.3 of this Framework;

6.6.2. a term no longer than 12 months.

6.7. A Comprehensive Submission is required to establish a Fixed Term ARIn, but no further reviews are required.

6.8. A Fixed Term ARIn cannot be varied or renewed and will automatically cease on its specified expiry date.

Renewable ARIns

6.9. A Renewable ARIn requires:

6.9.1. the additional remuneration to meet the criteria in paragraph 2.3 of this Framework;

6.9.2. a term no longer than 36 months.

6.10. A Renewable Term ARIn will cease to operate on the date specified in the ARIn.

6.11. A Renewable ARIn will cease to operate where the ARIn is reviewed in accordance with section 7 of this Framework and the director-general determines following the review that the ARIn should no longer apply. The date of effect of the ARIn cessation is the date that is at least ninety days after the date notice is provided to the employee of cessation of the ARIn, or on an earlier date if agreed by the employee.

6.12. A Comprehensive Submission is required to establish a Renewable ARIn.

6.13. A Renewable ARIn requires a Renewal Submission no more than 18 months from commencement or from the last Renewal or Comprehensive Submission.

6.13.1. The purpose of the Renewal Submission is to determine whether the director-general continues to consider that it is appropriate to provide an employee occupying the position to which the ARIn applies with the terms and conditions of employment provided by the ARIn.

Group ARIns

6.14. Where it is proposed that identical ARIns are to apply to a group of positions performing identical functions at the same classification level within a Directorate, this may be done as a single 'block' approval giving rise to a Group ARIn.

6.15. A Group ARIn requires:

6.15.1. the additional remuneration to meet the criteria in paragraph 2.3 of this Framework; and

6.15.2. a term no longer than three years; and

6.15.3. a group of positions and employees performing identical functions at the same classification level, approved in a block in accordance with paragraph 6.14 for a period of up to three years.

6.16. A Comprehensive Submission is required to:

6.16.1. establish a Group ARIn;

6.16.2. at the midpoint of this Agreement term; and

6.16.3. prior to the nominal expiry date of this Agreement.

6.17. Following a review and consultation with the head of service, the director-general will determine whether:

6.17.1. the ARIn should be renewed (in the same or different terms);

6.17.2. ceased in accordance with paragraph 6.21 or

6.17.3. in the case of a review conducted in accordance with paragraph 6.16.3, the additional pay component of the ARIn should be incorporated into base rates of pay in any subsequent Agreement.

6.18. To establish a Group ARIn only one Comprehensive Submission needs to be made in accordance with section 7 of this Framework in relation to the group of positions as identified in the submission to the head of service.

6.19. If following a review under section 7 the director-general determines that the ARIn should be renewed (on the same or different terms) the revised ARIn will apply to all employees in the specified positions or class of positions.

6.20. Employees may be offered a Group ARIn during the term the Group ARIn is in effect. Each employee in a position covered by the Group ARIn will be provided with an individual ARIn providing the same benefits and expiration date.

6.21. A Group ARIn will cease to operate where the ARIn is reviewed in accordance with section 7 of this Framework and the director-general determines following the review that the ARIn should no longer apply. The date of effect of the ARIn cessation is the date that is at least ninety days after the date notice is provided to the employee of cessation of the ARIn, or on an earlier date if agreed by the employee.

7. Review

Comprehensive Submission

7.1. In reviewing an ARIn, the director-general must have regard to the matters to be considered at paragraph 2.3. The director-general must also take into consideration relevant market data.

7.2. To commence, cease or change any ARIn, a Comprehensive Submission to the head of service is required. Specifically, a Comprehensive Submission is required to be submitted where:

7.2.1. a preliminary view is formed by the director-general that the position ceases to be critical to the operation of the Directorate or business unit in the Directorate;

7.2.2. a preliminary view is formed by the director-general that the employee ceases to hold the required specialist qualifications or specialist attributes;

7.2.3. a new ARIn (Project ARIn, Fixed Term ARIn, Renewable ARIn or Group ARIn) is being proposed for an existing employee or group of employees;

7.2.4. in relation to a Renewable ARIn, three years have elapsed since the last Comprehensive Submission;

7.2.5. in relation to a Group ARIn, to establish a Group ARIn and no more than three years from either commencement or from the last Comprehensive Submission and prior to the date of expiry of this Agreement;

7.2.6. a position is to be advertised with a rate of pay which includes the proposed ARIn amount; or

7.2.7. a variation is being proposed to an existing Renewable ARIn or Group ARIn.

7.3. A Comprehensive Submission must:

7.3.1. address the matters to be considered at paragraph 2.3 of this Framework; and

7.3.2. address whether the substantive position is correctly classified; and

7.3.3. address whether the position's job description and/or organisation structure of the business unit can be adjusted to mitigate the need for an ARIn; and

7.3.4. where the director-general considers that there is a compelling reason for the Directorate to pay enhanced rates of pay in excess of 50% of the base rate of pay for the position's classification, the director-general will provide the OIRWS details of that compelling reason, including appropriate evidence and supporting remuneration data.

7.4. When a recruitment selection process is proposed to include a pre-approved ARIn, the Comprehensive Submission must:

7.4.1. address the circumstances of the recruitment selection process (i.e., why an ARIn is necessary to be included in the advertised rate);

7.4.2. demonstrate the position (or a similar position) has recently been advertised without an ARIn and did not attract a suitable field or provide evidence that advertising at the Agreement rate will not attract a suitable field; and

7.4.3. set out the reasons in support of the ARIn itself (i.e., why the position meets the ARIn eligibility criteria).

Renewal Submission

7.5. Where, following head of service consideration of a Comprehensive Submission and a Renewable ARIn is approved by the director-general, it must be reassessed no more than 18 months later through a Renewal Submission.

7.6. A Renewal Submission is required to be completed where:

7.6.1. it is proposed that a Renewable ARIn should be renewed on the same terms;

7.6.2. an employee who is party to a Fixed Term, Renewable or Project ARIn temporarily vacates the position to which the ARIn relates, and it is being proposed that the ARIn be provided to the employee who is acting in the vacated position; or

7.6.3. an employee who is party to a Fixed Term, Renewable or Project ARIn temporarily vacates the position to which the ARIn relates for a period of ninety days or more, and it is being proposed that the ARIn apply to the employee upon the employee's return to the position.

Overdue Submissions

7.7. A Comprehensive or Renewal Submission due under this Agreement must be completed before the due date.

7.8. Where a Comprehensive or Renewal Submission is not completed before the due date, the responsible Directorate will within one week of the due date passing:

7.8.1. notify the employee(s) covered by the ARIn of the delay;

7.8.2. provide reasons for the delay to the head of service; and

7.8.3. develop and implement a plan to ensure the review is completed within three months.

7.9. If the review is not completed within the three-month period, the head of service will arrange for the review to be completed expeditiously.

7.10. The ARIn will continue until the review is completed in accordance with either subparagraph 7.8.3 or paragraph 7.9.

8. Consultation Requirements

8.1. Nothing in this section is intended to reduce overall terms and conditions.

8.2. The employee may invite a union or other employee representative to assist or represent their interests during consultation.

Establishment

8.3. The director-general must consult on the proposed terms of an ARIn with the employee to whom the ARIn is to apply, prior to the ARIn being approved; except where the ARIn is to be included as part of a recruitment process and there is no retrospective employee recruited at that stage.

Renewal or Cessation

8.4. If the position to which the ARIn applies is occupied when undertaking a review of the ARIn, the director-general will consult with the employee occupying the position to which the ARIn applies.

8.5. Where the employee occupying the position for which the ARIn is being reviewed is on long-term leave or is not responsive, reasonable attempts must be made to consult with the employee, or the employee's representative. If such reasonable attempts to consult with the employee are unsuccessful, then the director-general may proceed with the review without the input of the employee.

8.6. Upon completion of the review the director-general will notify the affected employee(s) in writing, and where relevant their representative(s), of the preliminary outcomes and reasons for the decision. The director-general will provide the employee(s) and their representative(s) 14 days in which to provide a written response for consideration by the director-general before making a final decision.

No Overall Reduction in Terms and Conditions

8.7. Where the terms of paragraph 3.3 are met, the director-general must consult with the relevant union in accordance with paragraph 3.3.

9. Approval Requirements

9.1. The director-general may only approve an ARIn when the following has occurred:

9.1.1. Taking into account the matters to be considered under paragraph 2.1 of this Framework, the director-general in his or her sole discretion considers that it is appropriate to provide an employee with terms and conditions of employment that are in excess of those which are ordinarily provided for under this Agreement.

9.1.2. The consultation requirements in section 8 of this Framework have been met.

9.1.3. The review requirements in section 7 of this Framework have been met.

9.2. Before approving an ARIn the director-general must consider the views of the head of service.

10. Operation

10.1. The rates of pay component of an ARIn will count as pay for all purposes including superannuation and for the purposes of calculating the rate of pay for annual leave, long service leave, paid personal leave, paid maternity leave, redundancy payments and other paid leave granted under this Agreement. If leave is on reduced pay or without pay, the pay component of the ARIn must be reduced proportionately.

10.2. Normal incremental advancement (where available) and pay and superannuation increases contained in Section C of this Agreement will continue to apply in relation to the substantive classification of the employee in receipt of an ARIn. Pay increase percentages will not apply to the pay component of an ARIn unless specified in the ARIn.

10.3. Any payments made pursuant to paragraph 10.2 of this Framework are paid in addition to the ARIn i.e. this means the ARIn payment does not absorb increases paid pursuant to paragraph 10.2.

10.4. The rates of pay component of an ARIn is payable by fortnightly instalment or lump sum.

10.5. The additional pay component provided under an ARIn may be used for the purposes of salary sacrifice arrangements in accordance with the Salary Sacrifice Arrangement provisions of this Agreement. Where an employee salary sacrifices any part of the terms of an ARIn and, in accordance with this Framework, the ARIn ceases to apply, the employee must notify the salary sacrifice arrangement provider that the terms of the ARIn can no longer be packaged.

10.5.1. The pay component of an ARIn cannot be directly linked to performance pay.

10.6. An ARIn will be paid proportionately on a pro-rata basis where the employee is part time. Where the scheduled part time hours worked by an employee to which the ARIn applies are amended the ARIn reduces (or increases) proportionately.

10.7. ARIn's are generally not paid retrospectively, but with the approval of the head of service may be for up to 3 months.

10.8. The ARIn will commence from whichever is the latter (unless an earlier date has been agreed by the head of service in accordance with paragraph 10.7):

10.8.1. the date specified in the ARIn; or

10.8.2. the date of final approval by the director-general after the requirements of section 6 are met.

10.9. An ARIn will cease to apply to an employee on the date that employee vacates the position to which the ARIn applies, including when the employee becomes unattached or is temporarily transferred to another position.

10.9.1. A Renewal Submission is required to be completed where an ARIn is to apply to another employee who occupies the vacated position, unless the position and the other employee are covered by the same Group ARIn. A renewal submission will be required in these circumstances.

10.9.2. The ARIn will automatically apply to the employee upon their return to the vacated position. A renewal submission will not be required in these circumstances.

10.10. An ARIn will cease to apply to an employee in relation to a sanction arising from a misconduct or underperformance matter, on the date the sanction is to apply where the delegate determines that the sanction to be applied to the employee is termination of the application of the ARIn.

10.11. An ARIn will cease to apply to an employee on the date an employee loses the qualification, or registration which allows them to perform the duties of the position to which the ARIn relates.

SCHEDULE 3 SPECIAL EMPLOYMENT CONDITIONS – CONTINUITY OF CARE MIDWIFERY MODEL

1. Introduction

1.1 These special employment conditions apply to midwives who are appointed to those areas utilising the Continuity of Care Midwifery Model (CCMM), including the Canberra Midwifery Program (CMP), the Continuity of Care at the Canberra Hospital (CATCH), The Continuity Model of Care Service (CMCS) and the Clinical Midwife Managers (CMM) of those areas.

1.2 These special employment conditions do not apply to persons employed on a casual basis and employees temporarily engaged in, or redeployed to, the Program for a continuous period of 4 (four) weeks or less.

2. Review Provisions

2.1 The Head of Service and the ANMF recognise that the CCMM has been operational for an extended period of time and is likely to expand. It is also recognised that the Special Employment Conditions, in its operative form, have not had significant changes made to it in the recent iterations of this Enterprise Agreement.

2.2 Therefore, the Head of Service and the ANMF agree to conduct a comprehensive joint review of all matters related to the Special Employment Conditions - Continuity of Care Midwifery Model set out in this Agreement.

2.3 The Head of Service and the ANMF are committed to working together to develop a sound framework that:

2.3.1 ensures the provisions of the Schedule accurately reflect existing practice;

2.3.2 provides appropriate flexibility to accommodate the future of the CCMM;

2.3.3 encompasses evidence-based best practice; and

2.3.4 improves employee wellbeing and working conditions.

2.4 For this purpose a Joint Committee will be established.

2.5 The Joint Committee will meet within 3 months of the commencement of this Agreement. At the first meeting, the terms of reference, schedule of meetings and draft project plan will be developed.

2.6 The Joint Committee will comprise of the following 8 members:

2.6.1 One representative nominated by the ANMF, who is the Union co-chair of the committee.

2.6.2 One representative nominated by the employer, who shall be the Territory co-chair of the committee.

2.6.3 3 worker representatives, nominated by the ANMF, and 3 Directorate representatives, nominated by the Territory.

2.7 In undertaking its work, the Joint Committee will consider the following matters:

2.7.1 A report from a comprehensive review of existing CCMM implementation and practices;

2.7.2 The express terms of the Enterprise Agreement, including any terms that any committee member seeks to review;

2.7.3 Contemporary research and evidence regarding Midwifery practice;

2.7.4 The existing education and workforce frameworks;

2.7.5 Any existing guidance policy and procedure material that is directly relevant to the ACTPS CCMM; and

2.7.6 Any other matter as determined by the Committee.

2.8 The Joint Committee will be provided a secretariat function by the Directorates, and be adequately resourced to ensure the Joint Committee can complete the work in the set timeframes as agreed in the Terms of Reference.

2.9 The Joint Committee will finalise a report and a set of recommendations (which will likely include proposed changes to the terms of the Enterprise Agreement) along with a draft implementation framework (which may include the provision of draft standards and a draft operational procedure) within 9 months of the first Committee meeting.

2.10 Where the Joint Committee recommends in their report that changes should be made to the existing schedule, these proposed changes will be provided to the Territory and the ANMF. The ANMF and the Territory may then mutually agree, in writing, to make and operationalise such proposed changes.

3. Definitions (for the purposes of this schedule)

Clinical Midwife Manager' or ***'CMM'*** means the operational manager of an area utilizing the CCM, and whose role can include clinical, management, education and research components. This term includes Clinical Midwifery Consultants at North Canberra Hospital.

Continuity of Care Midwifery Model (CCMM) means a model of midwifery care that allows a pregnant woman/person to work in partnership with a primary midwife who provides care throughout the antenatal, labour and postnatal periods of pregnancy. For clarity, this does not include a Rostered Team model.

"CCM Midwife" means a midwife registered with the Australian Health Practitioner Regulation Agency (AHPRA) to practice midwifery in the ACT, and who is employed in an area utilizing the CCMM.

"DoNM" means the Director of Nursing and Midwifery, Women and Children's Health.

"Hours of attendance" means the periods during which an employee attends for duty.

"Exceptional and unforeseen circumstances" has the same meaning as in Schedule 10.

4. Program Development and Service Improvement

4.1 Improvements to services will be based on evaluating, maintaining and extending staff education, as defined by the Maternity Unit management, and identified development goals for each employee. Employees will possess relevant approved qualifications in obstetrics emergency and neonatal life support (e.g. Neonatal Advanced Life Support (NALS) and Advanced Life Support in Obstetrics (ALSO) qualifications) on entry to the Program, or will be provided with the opportunity to acquire these qualifications within 12 (twelve) months of commencing work in an area operating under the CCMM.

4.2 The Directorates will cover the costs associated with their respective employees undertaking these courses and back fill will be provided if necessary to facilitate employees undertaking

these courses.

4.3 Employees will be educated in, and perform, suturing in appropriate circumstances.

5. Level of Service

5.1 The Program outcome will equate to up to 40 (forty) births per FTE employee per year (excluding the contribution of the CMM), and will be dependent on the acuity and complexity of the client profile.

5.2 To achieve the target, approximately four clients per calendar month per FTE will be booked onto the Program. This takes account of clients who may exit the Program, for whatever reason, before the completion of 35 (thirty-five) completed weeks' gestation.

5.3 Bookings will also take into account annual leave, personal leave and other duties. Where an employee, including those acting as CMM is scheduled to take leave or to perform work elsewhere in the Maternity Unit, no clients due to give birth during these times will be allocated to that midwife.

5.4 Part-time employees will contribute proportionately towards meeting a CCMs workload.

5.5 The CMM will not be required to take on a primary midwifery caseload, but may choose to do so only with the mutual agreement of the DoNM. Where the CMM does take on such a caseload, it will be no more than 7 (seven) births per year, according to the needs of the area, and will be dependent on the acuity and complexity of the client profile.

5.6 The number of bookings accepted will be the responsibility of the relevant Clinical Midwife Manager in consultation with the employees.

5.7 Where post-graduate student midwives are deployed to an area operating under the CCMM, this is not counted towards the overall level of service.

5.8 Graduate midwives working in an area operating under the CCMM as part of the Graduate Midwife Program are expected to undertake 75% of the equivalent FTE workload. This work is to be counted towards the overall level of the service.

5.9 To support the employees meeting the required level of service, an appropriate level of clerical support will be provided by a dedicated administrative/clerical support person.

5.10 Over the life of the Agreement, data on the impact of risk and acuity will be collected, and ACT Health and North Canberra Hospital will review the implications for outcomes and workload as described in subclause 5.1 and 5.2 of this schedule.

6. Rates of Pay

6.1 The base rate of pay of employees will be the rate determined under this Agreement for a RN/RM Level 2 applicable at the highest increment point of the salary scale, as amended throughout the life of this Agreement.

6.2 The CMM appointed to the CMP is classified at RN/RM Level 3 or equivalent.

6.3 Graduate Midwives working in the program will be classified as RN/RM 1.

7. Salary Loadings

7.1 Employees will receive a salary loading of 40% additional to the base rate of pay as referred to in subclause 6.1 of this schedule. This is known as an annualised salary. The loading will be

calculated as follows:

7.2 The base rate of pay is paid in lieu of payments under this Agreement, as specified in subclauses below.

7.3 A CMM who undertakes a minimum caseload of 3 (three) births per year will receive a 30% salary loading additional to the base rate of pay for their classification as referred to in subclause 6.2 of this schedule.

7.4 The loading under this clause is paid in lieu of other payments under this Agreement, as specified in subclauses below.

7.5 Graduate Midwives working in an area operating under the CCM will receive a 40% salary loading additional to the base rate of pay for their classification as referred to in subclause 6.3 of this schedule.

8. Employment Conditions

8.1 Except as provided for in this Schedule, the provisions of this Agreement will apply to CCM midwives.

8.2 The following Agreement provisions will **not apply** to employees covered by this Schedule:

Section D – Allowances

- Clauses 30 and 32 — On-Call and Close-Call Allowance

Section E – Penalties

- Clause 34 — Penalties - General
- Clause 35 — Night Duty Penalty Rate
- Clause 37 — 12 Hour Shift Penalty Rates
- Clause 38 — Public Holiday Penalties

Section J - Hours of Work

- Clause 56 — Shiftwork
- Clause 58 — 12-hour Shifts
- Clause 59 — Rostering Guidelines & Efficiencies (Schedule 8, paragraphs 31-37 **do** apply)
- Clause 61 — Rostering Practice
- Clause 62 — Accrued Days Off
- Clause 63 — Meal Breaks
- Clause 66 — Breaks from Ordinary Duty
- Clause 68 — Rest Breaks Following Overtime, On-Call and Close-Call

Section K – Workload Management

- Clause 69 — Workload Management

Section L - Overtime

- Clause 80 — Overtime Meal Allowance and Meal Tickets
- Clause 82 — Emergency Duty
- Clause 83 — Absence From Duty in lieu of Payment of Overtime
- Clause 84 — Rostered Extra Shifts Performed by P/T Employees

Section N – Leave

- Clause 101.9-101.11 Additional Leave for Employees Rostered On-Call and Recalled to Duty on a Sunday or Public Holiday (only)
- Clause 103 Annual Leave Loading

9. Hours of Attendance

9.1 Hours of attendance will be flexible and will be organised in consultation with the employee concerned, the team, and the CMM to meet the clinical requirements of the clients of an area operating under the CCMM.

9.2 The flexible hours of attendance provided for under this clause allow an employee to accrue (1) one hour of duty credit or debit. The employee and, the CMM have responsibility for ensuring that hours of attendance are organised so that excessive positive hours of duty balances and negative hours of duty balances are avoided.

9.3 Each employee will inform the CMM of any workload or excessive hours issues promptly so that alternative arrangements can be put in place. The employees and the CMM will ensure adequate breaks from work and a reasonable number of clear days off duty are taken. Excessive hours of duty credit/debit should be avoided and should eventually be balanced.

9.4 An employee will not exceed 12 (twelve) hours continuous duty, or 12 (twelve) hours total duty on any 1 (one) day, other than by agreement between the midwife and the CMM involved. If an employee is fatigued after 8 (eight) hours of work, the employee and CMM will organise appropriate relief. The CMM or DoNM may direct a midwife who is fatigued to leave work, and direct another employee to perform the fatigued employee's duties.

9.5 As far as practicable, an employee shall have at least one break from duty of not less than 9 (nine) consecutive hours in each 24 (twenty-four) hour period. An employee who has worked 12 (twelve) hours will be afforded at least 10 (ten) hours break before attending again for duty.

9.6 As far as practicable, and subject to clinical requirements, all employees will have two clear days off each week, and full-time employee will have one additional day off duty, every 4 (four) weeks. An employee will not generally be required to attend for duty on more than 7 (seven) consecutive days.

9.7 Midwives covered by this Schedule can be directed to work on a temporary basis in Delivery Suite or another non-CCMM area in the Maternity Unit in exceptional and unforeseen circumstances. Employees will continue to receive any loading payable under paragraph 6 of this Schedule for the period of any such direction. During this period they will work the usual roster that is required by the clinical area to which they have been assigned, and the provisions of paragraph 7 of this Schedule will continue to apply.

10. Record of Attendance

10.1 Employees will record their actual hours of duty in a manner determined by the Director of Nursing and Midwifery.

10.2 Each employee will record their working hours on a daily basis. It is the responsibility of the employee to report their working hours to the CMM on a fortnightly basis. The CMM will be responsible for reporting any excess hours or negative balance to the Director of Nursing and Midwifery. For the purposes of this clause, excess hours are defined as any hours of duty balance in excess of the limits set out in the table below at the completion of any 4 week period:

Employee type	**Hours of duty balance limit**
Full time employees	24 hours

Part-time employees: 8+ days a fortnight	18 hours
Part-time employees: 5-7 days a fortnight	12 hours
Part-time employees: up to 4 days a fortnight	6 hours

10.3 Any recorded difference between actual hours worked and ordinary hours of work (Clause 55) across a four-week period will be regarded as the employee's hours of duty balance for the purposes of onerous duty allowance (Clause 11.1 of this schedule)

10.4 The CMM will be responsible for workload management, overseeing the recording of hours by team members, and reporting monthly to the Director of Nursing and Midwifery any potential excess hours per subclause 11.1 of this schedule.

10.5 The CMM and affected employees will identify strategies for managing any excess hours of duty balance.

10.6 Any negative hours of duty balance that exists at the time an employee ceases to work in area covered by this schedule (excepting temporary transfers of < 3 months duration) will be deducted from the employee's available annual leave credit.

11. Onerous Duty Allowance

11.1 Subject to operational requirements, where an employee's positive hours of duty balance exceeds 24 hours (for a full-time employee) at the completion of any 4 week period, time off in lieu to reduce the balance below the limit in the table at subclause 10.2 of this schedule must be scheduled within the subsequent 16 weeks. If this cannot be done, the excess hours will be paid out:

11.1.1 For full-time employees, at the rate set out in Schedule 11;

11.1.2 For part-time employees:

11.1.2.1 For hours in excess of those prescribed in subclause 10.6 of this schedule, but less than 24 (twenty-four) hours, at the rate of 25%, additional to the hourly rate of pay.

11.1.2.2 For all hours in excess of 24 (twenty-four), at the rates specified for full-time employees.

11.2 Any excess hours cashed out under this clause will be deducted from the employee's hours of duty balance.

11.3 If an employee permanently ceases to work in an area covered by this schedule, any positive hours of duty balance will be paid out in accordance with subclause 11.1 of this schedule.

12. Annual Leave

12.1 Employees will be eligible for 7 (seven) weeks' annual leave per annum. This is to take account of being on call for Public Holidays and weekends.

12.2 Annual leave relief will be provided from within the Program.

12.3 A CMM will be eligible for 5 (five) weeks' annual leave per annum and relief replacement will be organised. This is to take account of being on call for Public Holidays and weekends.

12.4 Annual leave will be negotiated and planned within the teams, taking into account the leave to be taken by the CMM, and be scheduled to minimise variations in staffing from month to month.

12.5 During annual leave:

12.5.1 the salary loading provision contained in annualised salary loadings subclauses 7.1 to 7.4 of this schedule will continue to be paid; and

12.5.2 onerous duty allowance will not apply.

13. Personal Leave

13.1 The salary loading will continue to be paid for the first 18 (eighteen) days of personal leave taken in any sick leave year, and at the base rate of pay for all leave thereafter.

13.2 Where employees take unscheduled personal leave, other members of the team will cover the work that would have been undertaken by that member of the team. Replacement staff will be provided in circumstances where an area operating under the CCMM is unable to provide cover.

13.3 Where personal leave, planned or unplanned, is expected to extend beyond three days, the CMM will organise alternate relief provision with the appropriate manager.

14. Deductions from Leave Credits

14.1 Except in circumstances set out in subclause 14.2 of this schedule, for the purpose of granting leave, and making any consequential adjustments to leave credits, full-time employees will be regarded as being notionally rostered for duty from 9.00am to 5.30pm, Monday to Friday. Part-time employees will be regarded as being notionally rostered for duty on weekdays during such hours as agreed.

14.2 Where an employee, rostered on-call, becomes unavailable for duty due to the requirements of personal leave, an alternate employee will perform recall duty in substitution of the employee originally rostered on-call. The employee accessing personal leave will be entitled to claim personal leave equal to the time worked by an alternate employee from an area operating under the CCMM, or 4 (four) hours in the case of a client referred to Delivery Suite.

14.3 No employee will be eligible to record more than a total of 38 (thirty-eight) hours of personal leave in any one-week period (with a proportionate restriction applying to part-time employees).

15. Higher Duties

15.1 Where an employee is required to perform higher duties as the CMM, the midwife will be backfilled by an appropriately skilled midwife.

15.2 Providing they meet the requirements of subclause 7.3 of this schedule, an employee performing higher duties as CMM will be remunerated and receive a salary loading to their base rate of pay as set out in subclause 7.3 of this schedule. Annual leave will be accrued at 5 (five) weeks for the duration of the period of higher duties as set out in subclause 12.3 of this schedule.

15.3 Record of attendance and onerous duty allowance will be suspended for the period of higher duties. Any positive hours of duty credit/debit the employee holds will be taken as soon as possible after completion of the period of higher duties.

15.4 Subclause 14.2 of this schedule will not apply to the employee for the period of higher duties.

16. Motor Vehicles

16.1 CCMM areas will continue to utilise the most cost effective transport options to enable them to provide client services, including:

16.1.1 principally, by payment of motor vehicle allowance as set out in Schedule 11 for use of the employee's own vehicle in accordance with the PSM Standards; or

16.1.2 in cases where the employee does not have access to their own motor vehicle, use of an ACTPS leased vehicle, in accordance with relevant Directorate policies, including limited private use while on-call; or

16.1.3 use of taxi vouchers, where no other option is available.

SCHEDULE 4 SPECIAL EMPLOYMENT CONDITIONS – SCHOOL NURSES

1. Introduction

1.1 These special employment conditions apply to nurses whose positions are based at educational institutions operating in the ACT, and includes Special School Nurses and School Youth Health Nurses.

1.2 In addition, where agreed in writing between the employee and the head of service and where such an arrangement is consistent with the operational needs of the health service, these special employment conditions can apply to other nurses whose work is exclusively based in education institutions during school terms.

1.3 The terms of this Schedule will prevail over all other Sections of this Agreement to the extent of any inconsistency.

2. Definition

2.1 A School Nurse is an employee as described in 1.1 or 1.2 of this schedule who does not attend for duty during school stand-down periods, except for a period following annual leave during the Christmas stand-down.

2.2 Christmas stand-down is that period beginning the day after the last day of annual leave per subclause 4.1 of this schedule, and ending at the beginning of the school year.

3. Normal Hours of Duty

3.1 The normal hours of duty of a full-time School Nurse will be 8 (eight) hours per day between 8.30am to 5.00pm Monday to Friday.

3.2 By agreement between the head of service and employees, an employee's hours of work may be varied in accordance with the provisions of clause 87 of this Agreement (Regular Part-Time Employment).

3.3 A full time employee's hours of work may be arranged to provide for ADOs or part ADOs. ADO's accrue in relation to days worked, annual leave and public holidays consistent with the provisions of clause 62 of this Agreement. ADOs accrue at the rate of 1 (one) ADO for every 19 (nineteen) working days, annual leave days or Public Holidays. They do not accrue during stand down periods.

3.4 Up to 7 (seven) ADOs may be banked in any one calendar year to be taken during the Christmas stand-down period immediately following annual leave.

3.5 Any other ADOs may be taken during school term.

4. Annual Leave

4.1 School Nurses are required to take their accrued annual leave (4 (four) weeks maximum) during a period commencing on the first business day following the end of Term 4 and concluding on the last day covered by that accrued annual leave and applicable public holidays.

5. Purchased Leave

5.1 School Nurses are eligible to apply to purchase leave consistent with the provisions of clause 104, with the following additional conditions:

5.2 A School Nurse can purchase up to 2 (two) weeks leave at any one time, but no more than once per semester;

5.3 A School Nurse must apply by 1 August for leave to be taken in Semester 1 the following year, or by 1 March for leave to be taken in Semester 2 the same year.

6. Rates of Pay

6.1 The rate of pay of a School Nurse is 88% of the rate paid to an equivalent employee. This rate of pay takes into account the hours of duty set out in subclauses 3.1 to 3.3 of this schedule, the annual leave specified in subclause 4.1 of this schedule, and Public Holidays specified in this Agreement.

6.2 The rate of pay will also be adjusted to reflect part-time hours.

7. Classification

7.1 School Nurses will have access to the RN/RM Level 2 personal classification on the same basis as other employees under this Agreement.

8. Training and Development

8.1 School Nurses are entitled to the same Professional Development Leave and dedicated professional development time entitlements as other employees.

SCHEDULE 5 PERSONAL CLASSIFICATION – REGISTERED NURSE/REGISTERED MIDWIFE LEVEL 2 AND ENROLLED NURSE LEVEL 2

1. Selection Process

1.1 Procedures for advancement from Registered Nurses/Registered Midwives Level 1 to Registered Nurse/Registered Midwife Level 2 and from Enrolled Nurse Level 1 to Enrolled Nurse Level 2 on a personal basis will be based on the following principles:

2. General Principles

- The process should ensure that applicants have equal opportunity to demonstrate their suitability to be recognised for advancement.
- Applicants should have reasonable access to the same information relevant to the duties and the clinical area.
- No restrictions, other than set eligibility requirements, which may deter potential applicants from obtaining information or from applying for advancement or which prevent them from being considered for advancement.
- Selection must be made without unlawful discrimination as prohibited by the *Discrimination Act 1991 and* Part 2 of the PSM Standards.
- Potential applicants should be allowed time to prepare for the selection process.

3. Sound decision-making principles

3.1 The following principles will apply:

- procedure is fair and able to withstand scrutiny;
- decisions are made without favouritism or patronage and with regard to merit, equity and natural justice and only uses relevant information;
- applicants have a reasonable opportunity to be heard;
- applicants' claim is fully and fairly considered and feedback is available for all applicants; and
- selection process is reported fully and accurately.

4. Selection Panel

4.1 The Selection Panel will normally comprise of 3 (three) members, but not be limited to:

a) a panel chair who has appropriate skills and experience (should be a clinical RN/RM Level 3 unless otherwise agreed);

b) a person who has appropriate skills and experience, nominated by the Directorate Consultative Committee; and

c) a person who has appropriate skills and experience, nominated by the head of service from a list of employees, and agreed by both parties.

4.2 Panel members:

- for an RN/RM Level 2 selection, should be at RN/RM Level 2 level or higher;
- for a EN Level 2 selection, should be at EN Level 2 or higher;
- should be the same persons, where possible, until the selection process is completed; and
- are required to have completed training in the selection process and selection techniques.

4.3 Panel members of EEO designated groups should be included where they have relevant knowledge or skills.

4.4 The panel members have equal responsibility and accountability for:

- short listing of applicants;
- interviewing and assessing the applicants;
- recommendation of the suitability of the applicant for advancement.

4.5 All applicants should be assessed using the same method.

4.6 A written report with recommendation for advancement should be supported by the Panel's assessment of the applicant and references, which verify the applicant's claims and the Panel's assessment.

5. Selection documentation

5.1 Selection documentation should provide a clear description of the duties, skills and abilities needed. This enables applicants to frame their application appropriately.

Selection documentation includes:

- an information package;
- a description of the duties of the relevant classification;
- eligibility requirements including any formal qualifications;
- selection criteria based on skills and knowledge required for the classification;
- selection documentation should be current and realistic; and
- an appropriately framed EEO selection criterion must be included. This requires awareness of and commitment to EEO principles and practices.

6. Applicant's Documentation

6.1 The written application for advancement needs to address the selection criteria and clearly demonstrate evidence of the applicant's skills and abilities for advancement.

6.2 2 (two) written referee reports addressing the selection criteria are required to be included at the time of the applicant's application.

7. Moderation Panel

7.1 If unsuccessful, the applicant may seek reassessment by a Moderation Panel within 14 (fourteen) days of notification of the outcome.

7.2 The Moderation Panel will normally comprise of 2 (two) or 3 (three) members, including but not limited to:

a) a panel chair who has appropriate skills and experience, (should be a clinical RN/RM Level 3 unless otherwise agreed);

b) a person who has appropriate skills and experience, nominated by the Directorate Consultative Committee; and

c) a person who has appropriate skills and experience, nominated by the head of service from a list of employees, and agreed by both parties.

8. The Head of Service's Delegate

8.1 The Delegate has the ultimate authority to decide whether the applicant is advanced by considering:

- all information provided in the selection report, including applications, references and assessments;
- the selection and/or moderation panel's recommendation;
- individual assessments; and
- any other additional relevant information.

8.2 The Delegate must be satisfied that:

- the selection documentation describes the duties and selection requirements of the classification;
- the selection process was fair;
- the process was consistent with the EEO program and
- all applicants were assessed on the basis knowledge skills and abilities

8.3 The Delegate should not be a part of the selection committee.

9. Grievance Mechanism

9.1. An applicant may access the Internal Review Procedures contained in Section S of this Agreement.

SCHEDULE 6 SPECIAL ARRANGEMENTS FOR CALVARY

1. Transition of Former Calvary Employees

1.1 This clause applies to Former Calvary Employees only.

1.2 For the purpose of this clause, '**Former Calvary Employee**' means a person who was employed by Calvary, or a related corporation of Calvary, at Calvary Public Hospital Bruce or Clare Holland House, immediately before the Acquisition Day and accepted, or subsequently accepted, an offer to transition their employment to the ACT Public Service under the *Health Infrastructure Enabling Act 2023* and *Health Infrastructure Enabling Regulation 2023*.

1.3 For the purpose of this clause, '**Acquisition Day**' means 3 July 2023.

1.4 For the purpose of this clause, '**Ordinary Place of Work**' means:

1.4.1 for Former Calvary Employees who worked at, or from, Calvary Public Hospital Bruce, the North Canberra Hospital.

1.4.2 for Former Calvary Employees who worked at, or from, Clare Holland House Barton, Clare Holland House.

1.5 For the purpose of this clause, '**Service**' means a service or function delivered at, or from, the North Canberra Hospital or Clare Holland House immediately before Acquisition Day, and the roles/positions which deliver that Service.

Ordinary Place of Work

1.6 Former Calvary Employees will remain working at their Ordinary Place of Work unless they have volunteered to work at another site through standard operational mechanisms.

1.7 For clarity, Former Calvary Employees will only be required to participate on rosters (including on-call/recall or close-call) at their Ordinary Place of Work, unless the Former Calvary Employee was participating on other rosters immediately before the Acquisition Day.

1.8 In circumstances where the head of service proposes to move a Service from the North Canberra Hospital, Bruce Campus or from Clare Holland House to a different site, and the moving of that Service would affect a Former Calvary Employee because their role/position/roster moves with the Service, the head of service must:

1.8.1 write to the Former Calvary Employee setting out in detail the proposed changes.

1.8.2 state that there is no requirement for the Former Calvary Employee to agree to move to a different site.

1.8.3 state that the Former Calvary Employee may seek independent advice.

1.9 The Former Calvary Employee must provide their response to the proposed changes in writing.

1.10 If the Former Calvary Employee does not agree to move to a different site, they will remain working at their Ordinary Place of Work and may be transferred to an alternate position at their Ordinary Place of Work. For clarity, nothing in this clause prevents or restricts the operation of the Redeployment and Redundancy provisions under section V where the Former Calvary Employee declines a proposal to move.

1.10.1 If the Former Calvary Employee agrees to move to a different site, this clause will cease to apply to the Former Calvary Employee in respect of any future head of service requests to move to a different site.

1.10.2 For clarity, this clause does not prevent the head of service from moving a Service from the North Canberra Hospital or Clare Holland House to a different site. The consultation process established in clause 149 applies.

1.10.3 For clarity, this clause does not apply to a Former Calvary Employee who is directed to undertake working arrangements in response to an event or series of events, or activities declared to be a significant emergency event, in writing, by the head of service.

1.10.4 Any employment related disputes arising out of the application of this clause or sections 5(3) or 5(4) of the *Health Infrastructure Enabling Regulation 2023* (as amended from time to time) may be addressed through the Dispute Avoidance/Settlement Procedures outlined at subclause 152.

2. Canberra Hospital Employees

2.1 For the purpose of this clause, '**Canberra Hospital employees**' means ACTPS employees of Canberra Health Services whose normal place of work is The Canberra Hospital campus and does not include Former Calvary Employees as defined at subclause 1.2 of this schedule.

2.2 For the purposes of this clause, '**Transition Period**' means 3 July 2023 to 2 July 2024.

2.3 Canberra Hospital employees will not be required to provide ad-hoc shift cover or participate on rosters (including on-call/recall or close-call) at North Canberra Hospital or Clare Holland House during the Transition Period unless they have volunteered to do so through standard operational mechanisms.

2.4 Notwithstanding subclause 2.3 of this schedule, if the head of service has operational requirements to ensure safe coverage of a service at the North Canberra Hospital or Clare Holland House and volunteer capacity has been exhausted, the head of service can require a Canberra Hospital employee to provide ad-hoc shift cover during the Transition Period.

2.4.1 Any affected employee under subclause 2.4 of this schedule will be consulted and provided a genuine opportunity to discuss their participation in the operational requirement prior to decisions being made.

2.5 In circumstances where the head of service proposes to move a service from Canberra Hospital to North Canberra Hospital or Clare Holland House, and the moving of the service would affect a Canberra Hospital employee because their role/position/roster moves with the service, the consultation process established in clause 149 applies.

3. Superannuation for Former Calvary Employees

3.1 This clause only applies to Former Calvary Employees as defined at subclause 1.2 of this schedule who were members of the Public Sector Superannuation Accumulation Plan (PSSap) immediately before Acquisition Day.

3.2 The head of service must provide employer contributions to the PSSap equivalent to the PSSap employer contribution rate specified by legislation immediately before Acquisition Day (15.4%).

Note: this clause will cease to apply when the employer contributions at clause 19 equals or exceeds 15.4%.

3.3 For clarity, employer contributions at subclause 19.5 do not apply whilst this clause applies.

SCHEDULE 7 GUIDELINES FOR ALLOCATING AND SCHEDULING ANNUAL LEAVE

1. Taking into account the strategic bed management for the health service, and the trends in each ward or unit in previous years, an annual leave plan will be prepared.

2. Employees will confer with each other and with nurse managers, considering the above, and attempt to reach mutual agreement on when each of them will take annual leave in the coming year. Applications for leave will be assessed against the annual leave plan.

3. At the end of each calendar year a review will be undertaken of the amount of annual leave that each individual nurse has taken in the previous 12 (twelve) months, and those persons found to have taken less than 5/7ths of the leave accrued during that period will be encouraged to take this quantum of leave. They will be given a priority to access leave in accordance with their preferences.

4. It is desirable for employees to plan to take leave as far in advance as possible. Priority in the granting of leave will be given to employees who plan their leave well in advance. However, this should not prevent annual leave being granted at short notice on compassionate grounds and in special circumstances.

5. Peak leave periods such as Christmas, Easter and school holidays must be managed fairly and equitably because of the high demand for leave.

7. Applications for single annual leave days will be considered and may be granted dependent on operational requirements.

8. The same planned approach will be taken in relation to other kinds of leave where reasonable notice must be given, including long service leave**.**

SCHEDULE 8 ROSTERING GUIDELINES AND EFFICIENCIES

Purpose

1. These guidelines set out approaches to rostering that will be of benefit to both employees and the requirements of the organisation.

2. This Schedule applies in conjunction with clause 59 (Rostering), clause 61 (Rostering Practice), clause 70 (Nursing Hours Per Patient Day), Schedule 9 (Staffing Resources Protocol) and Schedule 10 (Mandated Minimum Nurse/Midwife-to-Patient Ratios) of this Agreement.

3. The Directorate, the unions and employees are committed to matching workload, staffing and skill mix on a planned basis, with a view to providing effective, efficient and safe levels of client/consumer care, and to promote employees' safety, health and welfare.

4. These Guidelines provide clear advice to employees and supervisors on the correct application of the provisions of the Agreement.

Principles of Rostering

5. The factors to be taken account of by managers in the development of rosters include:

- client/customer care needs, including continuity of care and the delivery of efficient and high standard care;
- fairness and equity in allocating shift and on call rosters, including consideration of employees' rostering requests;
- skill mix, including the need to roster appropriate numbers of skilled employees to meet operational requirements;
- avoidance of rostering practices that contribute to fatigue and adherence to rostering practices that control fatigue;
- budgetary performance and constraints;
- the need to maintain accurate and timely information on which to base future decisions;
- the provisions of the Agreement;
- workplace health and safety requirements;
- staff satisfaction, including taking into account employees' needs, including planned leave and family responsibilities;
- staff development, education and training needs, including mandatory training requirements and professional development needs;
- maintaining a legal record of employee attendance;
- meeting agreed NHPPD targets/Ratios; and
- annual leave, long service leave, maternity leave and other types of leave.

Rostering Framework

6. Each employee's hours of employment are rostered.

7. Standard rosters will be based on 8 hour morning, 8 (eight) hour evening and 10 (ten) hour night shifts (clause 56 of the Agreement).

8. Shifts of non-standard duration will only be introduced in accordance with clause 57.

9. Every attempt will be made to allocate employees for each shift that meets the specific needs of each ward or clinical service as regards to skill mix. The skill mix in a ward or clinical service will be determined according to the acuity assessment method applying in each area.

10. Short-term night duty shift vacancies to be filled by relief staff or by day duty staff, after negotiation and agreement with the employees involved.

11. Employees should not be required to work a roster of night duty for duration of less than 2 (two) weeks unless the employee indicates a preference for such work (clause 67 of the Agreement).

12. Preceptees' rosters should coincide with their preceptors'.

13. Employees will not be required to work any mix of ordinary duty, extra shifts or overtime that would result in the employee working for more than seven days without days off.

14. Late-early patterns of evening and morning shift will not be used except in an emergency situation, or where the employee requests them.

15. Annual leave is planned across the 52 (fifty-two) weeks of the year and relief arrangements made to cover this leave.

16. Additional annual leave may be approved by the Manager or Program Director when adjustments to the plan are possible, based on changes to staffing and workloads with agreement of employees.

17. Ad hoc single or otherwise annual leave days may be approved when circumstances allow and in consultation with employees, the Manager/Program Director and CNC.

18. In bed-based services, a RN/RM Level 2 Team Leader will be rostered on every shift on the roster. In the absence of a substantive RN/RM Level 2 on any shift after hours or on weekends, a RN/RM Level 1, excluding those employees recruited under the graduate program for newly registered nurses and who have not successfully completed that program, will be designated as being 'In Charge' for each such shift.

19. Rostering requests to be met wherever possible, considering fair and equitable distribution.

20. Correct roster codes to be used at all times to ensure employees are paid correctly.

21. All changes to a published roster require approval from the Manager/Program Director and CNC.

22. Professional development leave is planned in advance and relief provided as required, and where necessary confirmed prior to approval.

Allocation of Specials in areas utilising the NHPPD model

23. Patient safety will always be the priority when allocating resources and more than one special per shift in the one ward will only be considered once all other appropriate options for delivering safe patient care have been exhausted.

24. While 'specials' sit outside NHPPD calculations, it is acknowledged that the allocation of specials can nonetheless impact on NHPPD calculations.

Maximum 5 Days Supernumerary Status for all new Employees.

25. A standard maximum of 5 (five) days supernumerary status will apply to new starters. Where exceptional or unforeseen circumstances exist, the Deputy CEO CHS or the General Manager NCH will have the discretion to increase this amount on a case by case basis.

26. For the purposes of this clause, supernumerary means in excess of the normal or requisite number of nursing or midwifery staff.

Preferential Rostering

27. Based on the above guidelines a ward or other clinical service may choose to self-roster, whereby employees may indicate the shifts they would prefer to work.

28. Regular part-time employees may indicate their availability to work extra shifts.

29. Shift preferences will be accommodated by the nurse Manager/CNC on a fair and equitable basis.

30. Where preferential rostering is being used, in addition to the above guidelines:

- the Manager will make the request roster available for 10 (ten) days for employees to complete;
- all employees will ensure completed rosters are available for collection by the Manager/Program Director, one week prior to the day of publication;
- the request roster is overseen by the Manager/Program Director from the clinical area during this time, to ensure the roster is completed within the necessary timeframe and according to the principles and guidelines of rostering, and submitted to the appropriate Manager or Program Director one week prior to the publication of the draft roster (that is, 5 (five) weeks prior to the date of effect).

Responsibility of the Manager

31. Managers, Program Directors or other responsible officers will:

- post the roster request in the clinical area for 10 (ten) days immediately following publication of the previous roster;
- ensure all rosters comply with the current Agreement provisions;
- have overall responsibility to ensure the roster meets the needs of the unit and adheres to the roster principles and framework;
- make any adjustments necessary to the roster following consultation and negotiation with the employees affected by any change and the CNC;
- publish the monthly roster 2 (two) weeks prior to the end of the previous roster;
- approve all changes to a published roster, in consultation with employees that may be affected;
- enter changes into the rostering system;
- ensure all leave allocation is rostered and approved. Additional annual leave can be approved if the roster requirements are met; and
- have final responsibility for filling shortfalls or replacing personal anticipated leave and anticipated clinical need, in consultation with the area CNC or senior nurse/midwife on the shift.

32. Program/Shift Coordinators have responsibility for replacing unanticipated shortfalls in staffing.

33. Directors of Nursing/Midwifery or equivalent will be notified by the Clinical Nurse Consultant/Team Leader when Managers or the After Hours Hospital Manager are unable to meet the staffing needs of the ward. This does not prevent nurses from also notifying Directors of Nursing/Midwifery or equivalent in these instances.

Responsibilities of the Employee

34. Employees will:

- ensure they have provided input to the request roster within the timeframe required;

- familiarise themselves with the approved roster once it has been made available;

- submit leave applications in a timely manner; and
- give consideration to the principles governing rostering practice.

Ensuring all Relevant Nurses Counted Against NHPPD Calculations

35. The establishment of agreed NHPPD between the ANMF and ACT Health determined that, as per subclause 71.6.5, CNCs and CDNs would be 'indirect', allowing them to sit outside the NHPPD calculation. However practice has seen a range of other nursing staff also treated in this way (team leaders, supernumerary staff, nurses/midwives with performance issues) such that budgeted FTE are exceeded. Existing policy will be strictly adhered to, while staying within the boundaries of agreements with the ANMF on NHPPD.

1. Whenever unscheduled absences or changes in workload activity result in the requirement for additional nursing/midwifery resources to be allocated to a ward or other clinical service, the following process will be followed.

2. These processes also apply whenever staffing resources are surplus to requirements and enable employees to be redeployed to another service area.

3. An important object of this protocol is to manage risks to client / consumer safety.

Redeployment of Employees Within and Between Clinical Services

4. In the first instance, redeployment will take place within a clinical program if appropriate skills are available.

5. In the event that the staffing needs of one clinical program have been met, and surplus employees are available, then such employees may be deployed to the clinical program most in need of assistance. Allocation of redeployment shifts should be distributed fairly among employees when required.

6. With a view to minimising the impact of employee redeployment between or within clinical programs, the protocol set out below will be adopted.

7. The clinical requirements of clients/consumers will be the paramount factor informing decisions taken to redeploy nursing/midwifery staff. Decisions concerning redeployment of employees will be subject to consultation (in a professional manner) between the After Hours Hospital Manager/Coordinator or equivalent, and the employees in charge of the receiving and issuing wards/clinical units.

8. The CNC or equivalent is responsible for ensuring that the nursing/midwifery care requirements for the clients/consumers are met.

9. The manager/supervisor or equivalent is responsible for ensuring that the staffing resources on published rosters are adequate to meet client/consumer requirements.

10. The After Hours Hospital Manager or equivalent is responsible for the redeployment of employees. Where disputes over proposed redeployment arise the relevant Director of Nursing/Midwifery or equivalent will intervene.

11. An issuing ward or other clinical unit should not deplete its staffing skill mix to the point where that unit's capacity to provide client/consumer care is compromised or where the reduction would incur an WH&S risk to the remaining employees.

12. The skill levels and specialised knowledge of employees should be considered prior to any redeployment and also when a redeployed employee arrives in the receiving ward or other clinical area. The redeployed employee and the CNC or employee in charge should discuss the employee's skill level for the area of relief to assess how the employee's skills can best be used to meet client/consumer care needs. The appropriate patient care model will then be determined.

13. The receiving ward/clinical service will provide a brief orientation for any employee redeployed into the ward or clinical service, including hand-over arrangements and referral to the patient care plan.

14. Redeployment may be for a part or a full shift, based upon the requirements of the receiving ward/clinical service, and will be determined in consultation with the nurse/midwife in charge

of the receiving ward/clinical service and the After Hours Hospital Manager/Coordinator or equivalent.

15. Where practicable, nurses on a graduate program will not be redeployed out of their ward/clinical service during their first clinical placement.

16. The redeployment of the employee from the issuing ward/clinical service to the receiving ward/clinical service is to be documented on a redeployment sheet or time sheets as appropriate, along with reasons for the redeployment, and retained as a permanent record.

SCHEDULE 10 MANDATED MINIMUM NURSE/MIDWIFE-TO-PATIENT RATIOS

Overview

1. This Schedule sets out the agreed minimum Nurse/Midwife-to-Patient Ratios (Ratios) across Health Services that will provide for safe Nursing/Midwifery care.

2. A Ratio is a minimum requirement only and is not intended to prevent staffing a ward/unit/area with additional Nurses or Midwives beyond the number required by the Ratio where requested or required.

3. This Schedule is to be read in conjunction with the ACT Public Sector Nursing and Midwifery Safe Care Staffing Framework document (Staffing Framework) as varied from time to time after consultation.

4. In addition to these Ratios, all wards/units/areas in all Health Services covered by this Agreement will roster Nursing and Midwifery staff in accordance with the Roster Template.

5. The parties are committed to working together to consider the application of Ratios/Staffing Frameworks in ACTPS Community Health Settings. As such, the parties agree that within 12 months of this Agreement being approved by the Fair Work Commission, further work will be completed through a Joint ACT Government and ANMF Working Party, to research, review and where appropriate develop Ratios/Safe Staffing models and frameworks that may be suitable for ACTPS Community Health Settings (including Outpatients).

Objectives

6. The objectives of this Schedule are to:

   a. Provide for safe Nursing/Midwifery care; and

   b. Ensure resourcing for Nursing and Midwifery staff to provide safe care.

Definitions

Acute Aged Care Ward means a ward/unit/area that is an inpatient ward/unit/area designated to provide Nursing services to acute aged care patients.

General Medical Ward means a ward/unit/area that is an inpatient ward/unit/area designated to provide Nursing services to acute medical patients.

General Surgical Ward means a ward/unit/area that is an inpatient ward/unit/area designated to provide Nursing services to surgical patients.

Adult Mental Health Unit means the Adult Mental Health Unit at Canberra Health Services and the Acacia and Banksia units at North Canberra Hospital.

Health Service means Canberra Health Services or North Canberra Hospital as required.

Nurse/Midwife means an Enrolled or Registered practitioner who has registration granted to practise either profession in the ACT.

Nurse/Midwife Team Leader means a Registered Nurse and/or Registered Midwife, as required who is:

a. designated this function as a rostered position on a particular shift within a ward/unit/area by the Clinical Nurse/Midwife Consultant or Manager equivalent; and

b. directly responsible for providing oversight, leadership, communication and coordination of Nursing/Midwifery ward/unit/area activities for the shift to ensure delivery of safe patient care.

A Team Leader will be at the RN2/RM2 level, unless it is agreed that the position includes additional duties at a higher classification or is an RN1/RM1 in receipt of the In Charge of Shift Responsibility Allowance as per Schedule 11.

Ratio means a minimum Nurse/Midwife-to-Patient Ratio as required.

a. **Phase One ratio:** means a ratio implemented prior to this agreement, as set out in the Phase One section in this schedule.

b. **Phase Two ratio:** means a ratio included for implementation as set out in this schedule at table 1.

General Matters

7. A Ratio will comprise only of the following positions:

    a. Registered Nurse;

    b. Midwife (RM); and

    c. Enrolled Nurse.

8. The following positions will not be rostered and should not be used as part of normal day to day business to meet a Ratio.

    a. Director of Nursing/Director of Midwifery

    b. Assistant Director of Nursing/Assistant Director of Midwifery

    c. Clinical Nurse/Midwife Consultant;

    d. Nurse/Midwife Manager;

    e. Nurse/Midwife Educator; or

    f. Clinical Development Nurse/Midwife.

9. Where a Nurse working in a position set out in subclause 8 of this schedule is used to meet a Ratio (e.g. short-notice backfill), this will be reported through the monthly reporting mechanism.

10. Assistants-in-Nursing/Midwifery must not be used to meet a Ratio.

Skill Mix

11. Except as set out below, for wards listed in either Phase One or Phase Two ratios in this Schedule a ward/unit/area may use no more than 25per cent Enrolled Nurses when complying with a Ratio.

12. The following wards/unit/areas are exempt from the requirement set out at subclause 11 of this schedule, provided that there are still more RNs than ENs rostered on each shift:

Phase One areas

a. Acacia Unit NCH
b. Banksia Ward NCH

Phase Two areas

c. Adult Mental Health Rehabilitation Unit (AMHRU)

d. Gawanggal Mental Health Unit (GMHU)

e. Dhulwa Mental Health Unit (DMHU)

f. University of Canberra Hospital (for each Unit)

g. Clare Holland House

13. In those areas that were part of ACT Community Health as established on 31 January 2011, the proportion of established RN/RM Level 2 positions in the total number of established RN/RM Level 1 and Level 2 positions will not be reduced below 75% over the life of the Agreement.

Application – Phase One ratios

Ratio – General Medical/General Surgical/Acute Aged Care

14. A Health Service must staff a General Medical or General Surgical or Acute Aged Care ward as follows:

    a. On a morning shift or an evening shift:

        i. 1 Nurse for every 4 patients; and

        ii. 1 Nurse Team Leader;

    b. On a night shift:

        i. 1 Nurse for every 6 patients.

Example: In a general medical ward with 24 patients, on a morning shift, there must be 6 Nurses and 1 Nurse Team Leader (7 Nurses in total) to meet the Ratio.

Ratio – Adult Mental Health Unit

15. A Health Service must staff the Adult Mental Health Unit as follows:

    a. In a High-Dependency Unit/Area:

        i. On a morning, evening or night shifts:

            1. 1 Nurse for every 2 patients.

    b. In a Lower-Dependency Unit/Area:

        i. On a morning or an evening shift:

            1. 1 Nurse for every 4 patients; and

2. 1 Nurse Team Leader;

ii. On a night shift:

1. 1 Nurse for every 6 patients.

16. Unless otherwise provided, a Ratio applies to every ward/unit/area in a Health Service to which it is specified to apply.

16. A Health Service will comply with an applicable Ratio throughout the shift, in accordance with this Schedule.

17. A Health Service must publish all rosters in compliance with the Ratios set out in this schedule.

18. A Ratio must be applied based on the actual number of patients in each ward/unit/area to which it applies.

Example: In a ward with capacity to open 24 beds, where only 20 patients are currently occupying beds, the Health Service must not use, or open, the other 4 beds unless additional Nurses/Midwives are available to meet the Ratio requirements.

19. A Ratio may be applied in a flexible way in order to evenly distribute the workload, having regard to the level of care required by patients in a ward.

Example: In a ward with 8 patients and a 1:4 ratio, if 3 patients require a higher level of care and 5 patients require a lower level of care then one nurse may be assigned to care for the 3 patients requiring the higher level of care and the other nurse to the other 5 patients.

20. Given the strict application of a Ratio, if the actual or expected number of patients in a ward/unit/area is not divisible into a whole number following the application of the relevant Ratio, the Health Service must ensure that the ward/unit/area is staffed with one additional Nurse or Midwife (as required) in order to comply with a Ratio.

Example: In a ward with 22 patients and a 1:4 Ratio, the minimum Nurse staffing requirement will be 6 Nurses (22÷4=5.5 – therefore more than 5 Nurses are required – 6 Nurses to be provided).

21. Where a Ratio is not met due to a shortfall caused by late advice of or actual unforeseen staff absence (e.g. short-notice personal leave) or exceptional and unforeseen circumstances arising immediately prior to, or during a shift, and the Health Service, as a matter of priority, addresses and replaces the shortfall as soon as possible (to ensure the provisions of this Schedule are complied with), the Health Service will not be in breach of the provisions of this Schedule.

Application – Phase Two Ratios

22. Table 1 – Phase Two Implementation sets out the Phase Two ratios introduced for implementation during the life of this agreement.

Table 1 – Phase Two Implementation

Phase 2 Areas	Agreed Ratios	Comments	Agreed Date of Operation
Antenatal/Gynaecology Units	On morning and evening shifts: 1 Nurse or Midwife for every 4 patients; and 1 Nurse or Midwife Team Leader (being supernumerary) On night shift: 1 Nurse or Midwife for every 6 patients	– Where babies are present, the ratios become 1:6 morning and evening shifts; and 1:8 night shifts, in line with Postnatal ratios	– NCH February 2025 – TCH August 2025
Postnatal Units	<u>At TCH (CHWC)</u> On morning and evening shifts: 1 Midwife for every 6 patients (counting a Mother as 1 patient and a baby as 1 patient); and 1 Midwife Team Leader (being supernumerary) On night shift: 1 Midwife for every 8 patients (counting a Mother as 1 patient and a baby as 1 patient); and 1 Midwife Team Leader (being supernumerary) <u>At NCH</u> On morning and evening shifts:	– Where no babies are present, the ratios become 1:4 on morning and evening shifts; and 1:6 night shifts At NCH, the night shift Team Leader cover will be provided by the AH Maternity Services CNC	– NCH February 2025 – TCH August 2025

	1 Midwife for every 6 patients (counting a Mother as 1 patient and a baby as 1 separate patient); and 1 Midwife Team Leader (being supernumerary) On night shift: 1 Midwife for every 8 patients (counting a Mother as 1 patient and a baby as 1 patient)		
Birthing Units	<u>At TCH (CHWC)</u> 1 Midwife Team Leader (being supernumerary) on all shifts; and 1 Midwife to 1 patient in labour. For the Maternal Assessment Unit (MAU): 1 Midwife for every 3 patients <u>At NCH</u> 1 Midwife Team Leader (being supernumerary) on all shifts; and 1 Midwife to 1 patient in labour. For the Maternal Assessment Area (MAA): 1 Midwife for every 5 patients	At NCH, the night shift Team Leader cover will be provided by the AH Maternity Services CNC	NCH February 2025 TCH August 2025
Paediatrics	<u>Medical/Surgical Units/Areas:</u>		

(Medical /Surgical and Adolescent Units/Ares)	On all shifts: 1 Nurse for every 4 patients; and 1 Nurse Team Leader (being supernumerary) <u>Adolescents</u> On all shifts: 1 Nurse for every 4 patients; and 1 Nurse Team Leader (being supernumerary)		TCH August 2024
Paediatrics (High Care)	– On all shifts: – 1 Nurse Team Leader (being supernumerary); and – – For High Care: – 1 Nurse for every 3 patients (all shifts) – – For High Dependency: – 1 Nurse for every 2 patients (all shifts)		TCH August 2024
Neonatal Intensive Care Units (NICU)	– On all shifts: – 1 Nurse Team Leader (being supernumerary); and – 1 ACCESS Nurse; and – 1 Retrieval Nurse. – – For ICU Care: – 1 Nurse for every 1 patient (all shifts)		TCH August 2025

	– For HDU Care: – 1 Nurse for every 2 patients (all shifts)		
Special Care Nurseries	At TCH (CHWC) 1 Nurse or Midwife Team Leader (being supernumerary) on all shifts; and 1 Nurse or Midwife for every 3 patients (all shifts) At NCH On morning and evening shifts: 1 Nurse or Midwife for every 4 patients and 1 Nurse or Midwife Team Leader (being supernumerary) On a night shift: 1 Nurse or Midwife for every 4 patients	At NCH, the night shift Team Leader cover is to be provided by the Birthing Team Leader	NCH February 2025 TCH August 2025
Intensive Care Units	– AT TCH (CHS) – On all shifts: – 1 Nurse Team Leader (being supernumerary) per pod per shift; and – 1 ACCESS Nurse per pod per shift – – For ICU Care: – 1 Nurse for every 1 patient (all shifts) – – For HDU Care: – 1 Nurse for every 2 patients (all shifts) –	In addition to the mandated Ratios, there will also be 1 Clinical Care Co-ordinator for the Unit (at both TCH and NCH)	TCH August 2024 NCH February 2025

	– For identified higher acuity patients as required: – 2 Nurses for every 1 patient (all shifts) – – <u>AT NCH</u> – On all shifts: – 1 Nurse Team Leader (being supernumerary) per pod per shift; and – 1 ACCESS Nurse per shift – – For ICU Care: – 1 Nurse for every 1 patient (all shifts) – – For HDU Care: – 1 Nurse for every 2 patients (all shifts) – – For identified higher acuity patients as required: – 2 Nurses for every 1 patient (all shifts)		
Coronary Care Units	<u>At TCH (CHS)</u> On all shifts: 1 Nurse Team Leader (being supernumerary) 1 Nurse for every 3 patients (for 15 CCU beds); and 1 Nurse for every 4 patients (for 4 cardiology beds).		TCH August 2024 NCH February 2025

	At NCH On morning and evening shifts: 1 Nurse for every 3 patients and 1 Nurse Team Leader (being supernumerary) On night shifts: 1 Nurse for every 3 patients	At NCH, the night shift Team Leader cover is to be provided by ICU Team Leader	
Emergency Departments	At TCH (CHS) For all shifts: 1 Nurse Team Leader (being supernumerary) for the Department; 1 Nurse Team Leader (being supernumerary) for Paediatrics; 1 Nurse Team Leader (being supernumerary) for Fast Track; and 1 Nurse Team Leader (being supernumerary) for EMU. 1 Triage Nurse 1 Nurse – Main Waiting Room 1 Nurse per 1 patient in Resuscitation 1 Nurse per 1 patient in De-escalation – – For Acute/Paeds:	For clarity, these are minimum numbers. As such, it is a minimum of 1 Triage Nurse for every shift. Note that Ratios do not incorporate the Level 3 positions.	TCH August 2024 NCH February 2025

	– 1 Nurse for every 3 patients For Fast Track/EMU: 1 Nurse for every 4 patients <u>At NCH</u> For all shifts: 1 Nurse Team Leader (being supernumerary) for the Department 1 Triage Nurse 1 Nurse – Main Waiting Room 1 Nurse per 1 patient in Resuscitation – – For Acute: – 1 Nurse for every 3 patients For WST/SSU: 1 Nurse for every 4 patients	For clarity, these are minimum numbers. As such, it is a minimum of 1 Triage Nurse for every shift.	
Perioperative Services inclusive of Operating Theatres, Scrub scout and Anaesthetics	1 Nurse Team Leader (being supernumerary) for Perioperative Services (all shifts). For each Operating Theatre: 3.5 Nurses comprising: • 1 instrument Nurse;	These ratios reflect the Australian College Operating Room Nurses (ACORN) Standards	TCH August 2025 NCH August 2025

	• 1 circulation Nurse; • 1 anaesthetic Nurse; and • An additional 0.5 Nurse per Theatre For Holding Bay: 1 Nurse for every 3 patients		
Post Anaesthetic Care Units (PACU)	1 Nurse Team Leader (being supernumerary) on morning and evening shifts. For PACU stabilisation phase: 1 Nurse for every 2 patients For unstable/requiring airway support /ventilation: 1 Nurse for every 1 patient	The night shift Team Leader cover at TCH is to be provided by the Perioperative Team Leader	TCH August 2025 NCH August 2025
Extended Day Surgery Units (EDSU)	On morning and evening shifts: 1 Nurse for every 4 patients; and 1 Nurse Team Leader (being supernumerary) On night shift: 1 Nurse for every 4 patients		TCH August 2025 NCH August 2025
Endoscopy Areas	To follow GENCA, ANZCA and ACORN standards – added below from GENCA Endoscopy Procedure 1 endoscopy nurse with endoscopic skills is required to solely assist the endoscopist with the procedure		NCH August 2025

	1 nurse to assist the endoscopy nurse with specimen collection 1 anaesthetic nurse to assist the anaesthetist in airway management Post procedure PACU ratio applies		
Adult Mental Health Rehabilitation Unit (AMHRU)	On morning shifts: 1 Nurse for every 5 patients; and 1 Nurse Team Leader (being supernumerary) On evening shifts: 1 Nurse for every 5 patients On night shifts 1 Nurse for every 7 patients	AMHRU will be subject to the RN/EN 75%/25% Skill Mix exemption (noting that there must still be a higher number of RNs, than ENs, rostered per shift).	February 2026
Gawanggal Mental Health Unit (GMHU)	On morning and evening shifts: 1 Nurse for every 5 patients; and 1 Nurse Team Leader (being supernumerary) On night shifts 1 Nurse for every 4 patients	GMHU will be subject to the RN/EN 75%/25% Skill Mix exemption (noting that there must still be a higher number of RNs, than ENs, rostered per shift).	February 2026
Dhulwa Mental Health Unit (DMHU)	On all weekday morning shifts: No less than 4 Nurses; and 1 Nurse Team Leader (being supernumerary). On all other shifts:	DHULWA will be subject to the RN/EN 75%/25% Skill Mix exemption (noting that there must still be a higher number of RNs, than ENs, rostered per shift).	February 2026

	No less than 5 Nurses; and 1 Nurse Team Leader (being supernumerary). Where more than 20 patients at the Unit: 1 Nurse for every 4 patients; and 1 Nurse Team Leader (being supernumerary)		
University of Canberra Hospital (for each Unit)	On morning shifts: 1 Nurse for every 5 patients; and 1 Nurse Team Leader (being supernumerary) On evening shifts: 1 Nurse for every 5 patients On night shifts: 1 Nurse for every 6 patients	An after-hours CNC will cover the Hospital (all units, including AMHRU) on Evening Shifts (i.e. no Team Leaders on afternoon or night shifts). All Units will also be subject to the RN/EN 75%/25% Skill Mix exemption (noting that there must still be a higher number of RNs, than ENs, rostered per shift).	February 2026
Clare Holland House	On morning and evening shifts: 1 Nurse for every 4 patients; and 1 Nurse Team Leader (being supernumerary) On a night shift: 1 Nurse for every 5 patients; and 1 Nurse Team Leader (being supernumerary)	CHH will be subject to the RN/EN 75%/25% Skill Mix exemption (noting that there must still be a higher number of RNs, than ENs, rostered per shift).	February 2025
Cancer Services (TCH) (14A/14B)	<u>Haematology/Oncology</u> On morning and evening shifts: 1 Nurse for every 4 patients; and		TCH August 2024

	1 Nurse Team Leader (being supernumerary) On a night shift: 1 Nurse for every 6 patients.		

Demand higher or lower than expected

23. Beds in addition to the beds that have been staffed under a Ratio may only be occupied if Nurses or Midwives (as applicable) are available to comply with the Ratio.

24. If the actual or expected number of patients on a particular day falls below the number of patients for which a ward/unit/area is staffed in accordance with a Ratio, the number of Nurses or Midwives may be adjusted down whilst having regard to safe patient care.

Escalation

25. A Nurse or Midwife who works in a ward/unit/area that is covered by a Ratio may notify the relevant Health Service, or a relevant union, of an alleged breach of a Ratio.

26. An allegation of a breach of a Ratio will be resolved in accordance with the Dispute Resolution Procedure (DRP) clause of this Agreement.

27. Notwithstanding the provisions of the DRP clause, the first meeting between the relevant parties will be held no later than 2 business days (excluding weekends) after the matter is brought to the attention of a Health Service.

Reporting

28. A Health Service will prepare monthly reports on compliance with Ratios across all applicable wards/units/areas.

29. These reports will be provided monthly to the Ratios Implementation Oversight Group (however titled), along with copies to the relevant unions.

SCHEDULE 11 ALLOWANCES

1. The rates of allowances are as set out below and should be read in conjunction with Section D of this Agreement. In the case of any inconsistencies, the detailed provisions in Section D will apply.

QUALIFICATION ALLOWANCE FOR POST-GRADUATE EDUCATION

Type of allowance	**Rates of allowance per fortnight:**							
	Rates as at 09/06/22	From 05/01/23	From 08/06/2023	From 07/12/23	From 06/06/24	From 05/12/24	From 05/06/25	From 04/12/25
Enrolled Nurses								
3.50%	$88.47	$90.82	$91.73	$94.08	$95.49	$98.46	$99.44	$101.78
Registered Nurses/ Registered Midwives								
3.50% Honours Degree Conversion Degree Postgraduate Certificate	$97.55	$99.90	$100.90	$103.24	$104.79	$107.86	$108.93	$111.36
4.50% Postgraduate Diploma Second Degree	$125.42	$128.44	$129.72	$132.74	$134.72	$138.67	$140.06	$143.18

Type of allowance	Rates of allowance per fortnight:							
	Rates as at 09/06/22	From 05/01/23	From 08/06/2023	From 07/12/23	From 06/06/24	From 05/12/24	From 05/06/25	From 04/12/25
5.50% Masters Degree Doctoral Degree	$153.29	$156.98	$158.55	$162.24	$164.68	$169.49	$171.18	$175.00

CUSTODIAL ENVIRONMENT ALLOWANCE

1. An employee who is required by the head of service to perform duties in a custodial environment will be paid an allowance as set out in the table below.

2. The allowance is payable only for those shifts where the employee is performing duties in a custodial environment, and is calculated on an hourly basis.

3. This allowance **shall be included in salary** for the purposes of calculating overtime and shift penalty payments, and during all periods of leave during which the employee would have carried this responsibility, but for leave being taken.

4. The allowance is not paid to an employee who receives payment for the Mental Health Officer Allowance.

Type of allowance	Rates of allowance per hour:							
Custodial Environment allowance	**Rates**	1.79% from 05/01/23	1% from 08/06/2023	1.74% from 07/12/23	1.5% from 06/06/24	2.44% from 05/12/24	1% from 05/06/25	1.93% from 04/12/25

Type of allowance	Rates of allowance per hour:							
per hour	**as at 09/06/22**							
	$1.64	$1.67	$1.69	$1.72	$1.74	$1.78	$1.80	$1.84

MENTAL HEALTH OFFICER ALLOWANCE

1. For the purposes of this clause, 'Mental Health Officer' has the same meaning as in Section 201 of the *Mental Health Act 2015*.

2. An employee who performs the duties of a Mental Health Officer is paid an allowance per fortnight as per the table below.

3. This allowance **shall be included in salary** for the purposes of calculating overtime and shift penalty payments, and during all periods of leave during which the employee would have carried this responsibility, but for leave being taken.

Type of allowance	**Rates of allowance per fortnight:**							
Mental Health Officer Allowance per fortnight	**Rates as at 09/06/22**	1.79% from 05/01/23	1% from 08/06/2023	1.74% from 07/12/23	1.5% from 06/06/24	2.44% from 05/12/24	1% from 05/06/25	1.93% from 04/12/25
	$113.97	$116.01	$117.17	$119.21	$121.00	$123.95	$125.19	$127.61

COMMUNITY LANGUAGE ALLOWANCE

1. An employee, whose duties involve communication on a regular basis in languages other than English, including deaf oral language, deaf sign language and Aboriginal languages, will be paid an allowance if their language competence meets the required National Accreditation Authority for Translators and Interpreters (NAATI) level as set out in the table below.

2. The required standard of language competence is accreditation at NAATI Community Language Aide (formerly NAATI Level 1). Where assessment in a language is not offered by NAATI, the head of service may approve assessment by another individual or body that has:

    i. the necessary expertise to assess the language skills; and

    ii. sufficient knowledge of NAATI levels and competencies required to determine the appropriate rate of allowance.

3. The head of service should arrange accreditation testing, and pay any associated fees, for employees being considered for the allowance. Accreditation is organised by NAATI.

4. Until such time as recognition by NAATI, or an alternative provider, is available, the head of service may approve the payment at the lowest rate to an employee on the certification of the employee's supervisor.

5. The allowance may be paid from the date of an employee's application for payment, or from the date at which the head of service determines the need for the language has been demonstrated.

6. The head of service should review payment of the allowance annually, or whenever the employment status of a recipient changes, e.g. upon the recipient's promotion or temporary transfer. Such reviews should address whether there is a continuing need for communication in a language other than English.

7. This allowance **shall not be included in salary** for the purposes of calculating overtime and shift penalty payments, or any other entitlement of the employee, but will be paid during paid personal leave, annual leave and long service leave, pro-rata where appropriate, but not during any other period of leave.

Type of allowance	**Rates of allowance per annum:**							
Linguistic Availability and Performance Allowance: Level 1 (NAATI –	**Rates as at 09/06/22**	1.79% from 05/01/23	1% from 08/06/2023	1.74% from 07/12/23	1.5% from 06/06/24	2.44% from 05/12/24	1% from 05/06/25	1.93% from 04/12/25

Type of allowance	Rates of allowance per annum:							
Community Language Aide) per annum	$1,317	$1,340.57	$1,353.98	$1,377.54	$1,398.20	$1,432.32	$1,446.64	$1,474.56
Linguistic Availability and Performance Allowance: Level 2 (NAATI – Certified Provisional Interpreter, formerly NAATI Level 2) per annum	$2,632	$2,679.11	$2,705.90	$2,752.99	$2,794.28	$2,862.46	$2,891.09	$2,946.88

UNIFORM ALLOWANCE

1. An employee who is required by the head of service to wear a uniform will be paid a uniform allowance.
2. The rate of allowance will be as set out in the table below.
3. Where the ACTPS provides an employee with a uniform, the uniform allowance is not paid.
4. This allowance **shall not be included in salary** for the purposes of calculating overtime and shift penalty payments, or any other entitlement of the employee.

Type of allowance	Rates of allowance per annum:							
Uniform Allowance per annum	**Rates as at 09/06/22**	1.79% from 05/01/23	1% from 08/06/2023	1.74% from 07/12/23	1.5% from 06/06/24	2.44% from 05/12/24	1% from 05/06/25	1.93% from 04/12/25
	$462	$470.27	$474.97	$483.24	$490.49	$502.45	$507.48	$517.27

LAUNDRY ALLOWANCE

1. An employee who is required by the head of service to wear and launder a uniform will be paid a laundry allowance.
2. The rate of allowance will be as set out in the table below.
3. An employee who is not required to wear a uniform, but who performs clinical duties involving direct client contact, will be paid the laundry allowance.
4. This allowance **shall not be included in salary** for the purposes of calculating overtime and shift penalty payments, or any other entitlement of the employee.

Type of allowance	**Rates of allowance per fortnight:**							
Laundry Allowance per fortnight	**Rates as at 09/06/22**	1.79% from 05/01/23	1% from 08/06/2023	1.74% from 07/12/23	1.5% from 06/06/24	2.44% from 05/12/24	1% from 05/06/25	1.93% from 04/12/25
	$13.98	$14.23	$14.37	$14.62	$14.84	$15.20	$15.36	$15.65

IN CHARGE OF SHIFT – RESPONSIBILITY ALLOWANCE

1. On any shift after hours or on weekends where a RN/RM Level 1 is required to take charge of a clinical area, workgroup or ward, and a more senior employee is not on duty in the clinical area, workgroup or ward, the employee will be paid an allowance for each such shift as set out in the table below.

2. This allowance **shall not be included in salary** for the purposes of calculating overtime and shift penalty payments, or any other entitlement of the employee.

Type of allowance	**Rates of allowance per shift:**							
	Rates as at 09/06/22	1.79% from 05/01/23	1% from 08/06/2023	1.74% from 07/12/23	1.5% from 06/06/24	2.44% from 05/12/24	1% from 05/06/25	1.93% from 04/12/25
In-charge of shift responsibility allowance per shift	$28.78	$29.30	$29.59	$30.10	$30.55	$31.30	$31.61	$32.22

AFTER-HOURS HOSPITAL MANAGERS/COORDINATORS- RESPONSIBILITY ALLOWANCE

1. A responsibility allowance will be paid to those employees classified as RN/RM Level 4, who are employed as after-hours hospital managers/coordinators at The Canberra Hospital or Calvary Hospital.

2. The allowance shall be paid for all hours worked by the employee outside the hours of 0800 hours to 1700 hours, Monday to Friday, and all hours worked on weekends and Public Holidays during which the employee carries this responsibility.

3. The rate of allowance will be paid as set out in the table below.

4. This allowance **shall be included in salary** for the purposes of calculating overtime and shift penalty payments, and during all periods of leave during which the employee would have carried this responsibility, but for leave being taken.

5. An employee who is eligible for this allowance will also receive a paid meal break of half an hour

Type of allowance	**Rates of allowance per hour:**							
After-hours Hospital Managers/Coordinator's Allowance: The Canberra Hospital per hour	**Rates as at 09/06/22**	1.79% from 05/01/23	1% from 08/06/2023	1.74% from 07/12/23	1.5% from 06/06/24	2.44% from 05/12/24	1% from 05/06/25	1.93% from 04/12/25
	$4.29	$4.37	$4.41	$4.49	$4.55	$4.67	$4.71	$4.80
After-hours Hospital Managers/Coordinator's Allowance: North Canberra Hospital per hour	$4.29	$4.37	$4.41	$4.49	$4.55	$4.67	$4.71	$4.80

MOTOR VEHICLE ALLOWANCE

1. The head of service may authorise an employee to use a motor vehicle they own or hire in any- of the following situations:

   (a) For official purposes, where the head of service is satisfied this use would do any of the following:
      i. Result in greater efficiency.
      ii. Involve the ACT Government in less expense than if public transport or a vehicle owned by the ACT Government were used.

   (b) For specified journeys, where the head of service is satisfied that any of the following apply:
      i. The use will not result in the employee taking more time on the journey than they would otherwise take.
      ii. It would not be contrary to the interest of the ACT Government.

   (c) Travel between normal headquarters and a temporary work station, or between the employee's home and a temporary work station, where the head of service is satisfied that any of the following apply:
      i. There is no public transport available for travel to the temporary station.
      ii. Although public transport is available, the work program makes its use impossible.

2. If an employee uses a motor vehicle in accordance with this clause they are entitled to be paid an allowance as set out in the table below for each kilometre travelled.

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

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

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

6. For electric, hybrid and liquified petroleum gas (LPG) vehicles and any type of motorcycle, the rates payable per kilometre are the rates determined by the Australian Tax Office as in force from time to time.

Type of allowance	Rates of allowance per kilometre:
Motor Vehicle Allowance per kilometre	
Small car - 1600cc non-rotary, 800cc rotary.	$0.78
Medium car - 1601-2600cc non-rotary, 801-1300cc rotary.	$0.90
Large car - over 2600cc non-rotary, over 1300cc rotary.	$0.91

CDN RESPONSIBILITY ALLOWANCE

1. An employee who is required by the head of service to perform duties as an RN2 Clinical Development Nurse (CDN) will be paid an allowance as set out in the table below.

2. This allowance shall not be included in salary for the purposes of calculating overtime and shift penalty payments, or any other entitlement of the employee.

3. To be eligible for this allowance, an employee must be performing the duties of an RN2 position with an official designation of CDN.

4. Part-time employees will be eligible for the allowance on a pro-rata basis.

Type of allowance	**Rates of allowance per fortnight:**							
CDN Responsibility Allowance – paid fortnightly	**Rates as at 09/06/22**	1.79% from 05/01/23	1% from 08/06/2023	1.74% from 07/12/23	1.5% from 06/06/24	2.44% from 05/12/24	1% from 05/06/25	1.93% from 04/12/25
	$102.25	$104.08	$105.12	$106.95	$108.55	$111.20	$112.32	$114.48

OVERTIME MEAL ALLOWANCE (CLAUSE 91)

Type of allowance	Rates of allowance							
Overtime Meal Allowance	**Rates as at 09/06/22**	1.79% from 05/01/23	1% from 08/06/2023	1.74% from 07/12/23	1.5% from 06/06/24	2.44% from 05/12/24	1% from 05/06/25	1.93% from 04/12/25
	$31.60	$32.17	$32.49	$33.05	$33.55	$34.37	$34.71	$35.38

ONEROUS DUTY ALLOWANCE – CONTINUITY OF CARE MIDWIFERY MODEL (SCHEDULE 3)

Full-Time Employees

Type of allowance	Rates of allowance per hour							
Onerous duty - CMM	**Rates as at 09/06/22**	1.79% from 05/01/23	1% from 08/06/2023	1.74% from 07/12/23	1.5% from 06/06/24	2.44% from 05/12/24	1% from 05/06/25	1.93% from 04/12/25
For the first three hours, at the hourly rate of:	$93.50	$95.17	$96.13	$97.80	$99.26	$101.69	$102.70	$104.69
For hours greater than three hours, at the hourly rate of:	$124.67	$126.90	$128.17	$130.40	$132.36	$135.59	$136.94	$139.59

CORPORATE CITIZENS ALLOWANCE

An employee is eligible for an allowance for any day or part-day they are designated and available to perform the duties of one of the following roles:

1. Fire Warden. The employee must be a designated fire warden in a workplace or work group who has completed the appropriate training. All Fire Warden training will be provided at no cost to the employee.
2. Elected and Trained Health and Safety Representative (HSR). The employee must be a member of a work group, elected by that work group as an HSR in accordance with Part 5 of the *Work Health and Safety Act 2011* and must have successfully completed a recognised HSR training program approved by WorkSafe ACT. An employee elected as a Deputy HSR is not eligible for the allowance unless they are performing the duties of the HSR in the HSR's absence.

All of the following conditions apply:

1. The allowance must not be included in salary for overtime or penalty payments.
2. If an employee who normally undertakes a role is absent and another employee who is qualified to perform all the duties for which the allowance is paid takes over those duties, the relieving employee is entitled to be paid the allowance.
3. An employee who holds both a Fire Warden and a HSR role is eligible for one payment of the allowance only.
4. The allowance is not paid during any type of unpaid leave.

Type of allowance	**Rates of allowance per day**			
Corporate Citizens Allowance	**On agreement effective date**	2.44% from 05/12/24	1% from 05/06/25	1.93% from 04/12/25
Per day	$3.11	$3.18	$3.22	$3.28

SCHEDULE 12 OTHER LEAVE

Leave to:	**1. Attend Aboriginal or Torres Strait Islander Ceremonies**
Purpose	The head of service may approve an employee's application to access leave to attend a ceremony associated with the death of an immediate or extended family member or for other ceremonial obligations under Aboriginal and Torres Strait Islander law.
Eligibility	An employee who is of Aboriginal or Torres Strait Islander descent.
Entitlement	A maximum period of 10 days in any 2-year period, in addition to bereavement leave.
Conditions	-
Rate of payment	Full pay.
Effect on other entitlements	Will count as service for all purposes.
Leave to:	**2. Attend Aboriginal and Torres Strait Islander meetings**
Purpose	The head of service may approve an employee's application to access leave to attend representative meetings in the capacity of an elected representative of the Aboriginal and Torres Strait Islander peak body.
Eligibility	An employee who is an elected representative of the ACT Aboriginal and Torres Strait Islander peak body.
Entitlement	Paid time to attend recognised meetings.
Conditions	If an employee accepts any fee for attendance at the meeting, leave is granted without pay.

	An employee may accept reimbursement for out-of-pocket expenses.
Rate of payment	Full pay.
Effect on other entitlements	Will count as service for all purposes.

Leave to:	**3. Attend NAIDOC week activities**
Purpose	The head of service may approve an employee's application to access leave to enable an employee to attend and participate in NAIDOC Week activities.
Eligibility	An employee other than a casual employee.
Entitlement	This leave may be granted for one complete day or for varying periods over the week's activities, totalling the equivalent of one complete day.
Conditions	Subject to operational requirements.
Rate of payment	Full pay.
Effect on other entitlements	Will count as service for all purposes.
Leave to:	**4. Religious purposes**
Purpose	The head of service may approve an employee's application to access leave to enable an employee to attend a ceremony integral to the practice of the employee's religious faith.

Eligibility	An employee who is an adherent to the particular religious faith and who is a practising member of that religious faith.
Entitlement	A maximum period of 10 days in any 2 year period.
Conditions	Religious leave is only available for ceremonies that are of significant importance to the particular faith that are generally observed by the entire faith. Leave is not available for ceremonies that are only of significance to the individual member of the particular religious faith.
Rate of payment	Without pay.
Effect on other entitlements	Will not count as service for any purpose.

Leave to:	**5. Defence Reserve**
Purpose	The head of service may approve an employee's application to access leave to enable an employee to undertake specified defence service and, also, enlistment, training or deployment with the Australian Defence Force Reserve (ADFR).
Eligibility	Available to employees other than casual employees.
Entitlement	The entitlement to leave for Reserve Service is prescribed under the *Defence Reserve Service (Protection) Act 2001*. An employee may be granted leave (with or without pay) to enable the employee to fulfil Australian Defence Force (ADF) Reserve and Continuous Full Time Service (CFTS) or Cadet Force obligations. An employee is entitled to ADF Reserve Leave with pay, for up to 4 weeks during each financial year for the purpose of fulfilling service in the ADF Reserve. These purposes include training and operational duty as required. During an employee's first year of ADF Reserve service, a further 2 weeks paid leave may be granted by the head of service to facilitate participation in additional ADF Reserve training, including induction requirements. With the exception of the additional 2 weeks in the first year of service, leave can be accumulated and taken over a period of 2 years, to enable the employee to undertake training as a member of the ADF Reserves.

	Employees are not required to pay their tax-free ADF Reserve salary to the ACTPS in any circumstances. An employee who is an officer or instructor of cadets in a Cadet Force may be granted paid leave of up to 3 weeks each financial year to perform duties as an officer or instructor of Cadets. For these purposes 'Cadet Force' means the Australian Navy Cadets, Australian Army Cadets, or the Australian Air Force Cadets. Defence Reserve Leave counts as service for all purposes, except for unpaid leave to undertake CFTS. Unpaid leave for the purpose of CFTS counts for all purposes except Annual Leave. An eligible employee may also apply for Annual Leave, Long Service Leave, leave without pay, or they may use ADOs or flextime (where available) to make up time for the purpose of fulfilling ADF Reserve, CFTS or Cadet Force obligations.
Conditions	An eligible employee must give notice to the head of service as soon as practicable of their absence or intention to be absent for Defence Reserve Leave, including documentary evidence.
Rate of payment	With pay or without pay.
Effect on other entitlements	As per entitlement.

Leave to:	**6. Operational Service Personal Leave**
Purpose	The head of service may approve an employee's application to access leave to enable officers and employees who have rendered operational service to be absent from duty when they are unfit for work because of war-caused injuries or diseases.
Eligibility	An officer or employee (other than a casual employee) who has rendered operational service.
Entitlement	Operational service personal leave is cumulative and is additional to personal leave entitlements contained in clause E4. Officers: On appointment, an eligible officer is entitled to 9 weeks operational service personal leave. An eligible officer is entitled to receive an additional credit of 3 weeks operational service personal leave at all of the following times:

	12 months after the date of appointment. 24 months after the date of appointment. 36 months after the date of appointment. The maximum operational service personal leave balance that an eligible officer may have is 18 weeks. Employees (other than Officers): On engagement, an eligible employee is entitled to 9 days operational service personal leave. An eligible employee is entitled to receive an additional credit of 3 days operational service personal leave at all of the following times: 12 months after the date of engagement. 24 months after the date of engagement. 36 months after the date of engagement. The maximum operational service personal leave balance that an eligible employee may have is 18 days. Where operational service personal leave credits have been exhausted, the head of service may grant an employee personal leave or a period of unpaid operational service personal leave.
Evidence and Conditions	An eligible officer or employee should discuss with their manager or supervisor, as soon as practicable, of their absence or intention to be absent on operational service personal leave. An eligible officer or employee must make an application to the head of service to access their operational service personal leave entitlement. Having considered the requirements of this clause the head of service may approve an eligible officer or employee's application to access operational service personal leave. A decision not to approve the leave will be taken in accordance with subclause E3.1.
Leave to:	**6. Operational Service Personal Leave (cont.)**
	Operational service personal leave may be granted by the head of service for any of the following:

	(a) To cover absences resulting from war-caused injury or diseases. Following a written request from an eligible officer or employee, which must include documentary evidence that the absence is due to the war-caused injury or disease, including evidence that the injury or disease is a war-caused injury or disease in accordance with the requirements of the *Veterans' Entitlement Act 1986 (Commonwealth)*.
Rate of payment	With pay. The rate of payment to be paid to the employee during a period of operational service personal leave is the same rate as would be paid if the employee was granted personal leave, except where it is granted without pay.
Effect on other entitlements	Operational service personal leave with pay will count as service for all purposes. Operational service personal leave without pay will not count as service.
Interpretation	**Operational service** has the same meaning as in the *Veterans' Entitlement Act 1986* (Commonwealth). **War-caused injuries or diseases** has the same meaning as in the *Veterans' Entitlement Act 1986* (Commonwealth).

Leave to:	**7. Returned soldiers for medical purposes**
Purpose	The head of service may approve an employee's application to access leave to enable an employee to attend an appointment for treatment or review as a returned soldier under the *Veterans' Entitlement Act 1986* (Commonwealth).
Eligibility	An employee who is a returned soldier.
Entitlement	A maximum period of 2 weeks in any 12 month period.
Conditions	-
Rate of payment	Full pay.
Effect on other entitlements	Will count as service for all purposes.
Leave to:	**8. Accompany a domestic partner on a posting**
Purpose	The head of service may approve an employee's application to access leave to enable an employee to accompany the employee's domestic partner for the period, or part of the period, of an interstate or overseas posting.
Eligibility	An employee whose domestic partner is posted to interstate or overseas employment by their employer, and the employer is one of the following: • the ACTPS, • the APS, • Calvary Hospital Incorporated, • A statutory authority established under a Federal, state or territory law. or the domestic partner is employed in a capacity that is directly relevant to representing Australia's national interest.

	For the purpose of this leave, 'post' means any office or other establishment of the employers above, where an employee's domestic partner is required by the employer to serve interstate or overseas, for any purpose. This includes a mission, appointment, station or place in a country overseas.
Entitlement	The maximum period is the period during which the domestic partner of the employee is required to perform duties overseas, or interstate.
Conditions	-
Rate of payment	Without pay.
Effect on other entitlements	Will not count as service for any purpose.

Leave for:	**9. Engage in employment in the interests of defence or public safety**
Purpose	The head of service may approve an employee's application to access leave to enable the employee to engage in work or employment that the head of service considers is in the interests of the defence or public safety of the Commonwealth or the Territories.
Eligibility	An employee.
Entitlement	A maximum period of 2 years.
Conditions	-
Rate of payment	Without pay.
Effect on other entitlements	The first 12 months will count as service for all purposes. Subsequent leave will count as service for all purposes except annual leave.

	If an employee does not return to duty with the ACTPS the leave will not count as service for any purpose.

Leave to:	**10. Attend as a witness**
Purpose	The head of service may approve an employee's application to access leave to enable an employee to give evidence before a body or person before whom evidence may be taken on oath.
Eligibility	An employee.
Entitlement	Refer to rate of payment.
Conditions	If an employee is required to travel to give evidence, they may be reimbursed for reasonable travel expenses as if the employee had travelled in the course of the employee's duties, less any amount received as witnesses' expenses.
Rate of payment	With pay where the employee is to give evidence for any of the following: (a) On behalf of a Territory, a State or the Commonwealth. (b) On behalf of an authority established by or under a law of a Territory, State or the Commonwealth. (c) In a judicial review or administrative review proceeding where the matter being reviewed relates to the work of the employee; or (d) Before a Royal Commission appointed under a law of the Commonwealth. (e) Before a person conducting an inquiry under a law of a Territory, a State or the Commonwealth. (f) Before a person or authority exercising arbitral functions under a law of a Territory, a State or the Commonwealth.

	Without pay where the leave to give evidence is for any other purpose.
Effect on other entitlements	Will count as service for all purposes.
Leave to:	**11. Attend proceedings at the Fair Work Commission**
Purpose	The head of service may approve an employee's application to access leave to enable the employee to give evidence on behalf of a staff organisation in proceedings at the Fair Work Commission. *An employee may be granted a period of leave as required in the circumstances and may be with or without pay depending on the circumstances.*
Eligibility	An employee who is a representative of a staff organisation.
Entitlement	The time necessary to present a case or to give evidence or to attend inspections conducted by the Fair Work Commission, plus reasonable travel time.
Conditions	Leave with pay cannot be granted to more than 2 representatives for the same period.
Rate of payment	With pay or without pay.
Effect on other entitlements	With pay does count as service for all purposes. Without pay does not count as service for any purpose, but does not break continuity of service for long service leave purposes.

Leave to:	**12. Donate an organ**
Purpose	The head of service may approve an employee's application to access leave to enable an employee to donate an organ.
Eligibility	An employee who volunteers as an organ donor.
Entitlement	A maximum period of 3 months in any 12 month period.

Conditions	-
Rate of payment	Full pay.
Effect on other entitlements	Will count as service for all purposes.
Leave to:	**13. Donate blood**
Purpose	The head of service may approve an employee's application to access leave to enable an employee to donate blood.
Eligibility	An employee, who volunteers as a blood donor.
Entitlement	The time necessary to attend to give blood, including travel and reasonable recovery time.
Conditions	-
Rate of payment	Full pay.
Effect on other entitlements	Will count as service for all purposes.

Leave to:	**14. Hold a full-time office in a staff organisation**
Purpose	The head of service may approve an employee's application to access leave to enable an employee to hold a full-time office in a staff organisation; council of staff organisations, or credit union, co-operative society, building co-operative or similar body.
Eligibility	An employee
Entitlement	The maximum period of leave that may be granted is the period for which the employee is elected to office, or in the case of a non-elected office, 3 years.

Conditions	To be eligible for leave to hold a non-elected office the employee must have been employed in the ACTPS or in the Australian Public Service for at least 4 years, at the date at which the leave is proposed to begin. Leave may only be granted for this purpose where the relevant body is incorporated and is conducted by, or on behalf of, a staff organisation for the benefit of the members of the staff organisation or all persons employed in the ACTPS.
Rate of payment	Without pay.
Effect on other entitlements	Will count as service for accruing personal leave and calculating the period of service for long service, except where the leave is to enable the employee to take up an honorary office. Where leave is granted to enable the employee to take up an honorary office, the first 2 months leave in each calendar year will count as service for all purposes. Leave in excess of 2 months in a calendar year will not count as service for any purpose other than ongoing eligibility to access birth leave as provided by subclause E14.7.
Leave to:	**15. Local government purposes**
Purpose	The head of service may approve an employee's application to access leave to enable the employee to attend formal meetings, in the capacity of an elected office holder, of a local government council.
Eligibility	An employee who is a duly elected office holder of a local government council.
Entitlement	A maximum period of one of the following: (a) In the case of an employee who is mayor or president of the council, 5 days in any 12 month period. (b) In any other case 3 days in any 12 month period
Conditions	-
Rate of payment	Full pay.
Effect on other entitlements	Will count as service for all purposes.

Leave for:	**16. Campaign for election**
Purpose	The head of service may approve an employee's application to access leave to enable the employee to campaign for election.

Eligibility	An employee who is standing for election to the ACT Legislative Assembly, Commonwealth or State House of Parliament, or other approved legislative or advisory body approved by the head of service.
Entitlement	A maximum period of 3 months.
Conditions	-
Rate of payment	Without pay.
Effect on other entitlements	Will not count as service for any purpose.

Leave for:	**17. Attend sporting events as an accredited competitor or official**
Purpose	The head of service may approve an employee's application to access leave to enable an employee to attend sporting events as an accredited competitor or official.
Eligibility	An employee who is selected by an official sporting body to participate as an accredited official or competitor with national or international sporting status.
Entitlement	To attend training for, or to attend, a major national or international sporting or other recognised event in the capacity of an accredited official or competitor.
Conditions	Leave is with pay unless otherwise agreed by the employee.
Rate of payment	With pay or without pay.
Effect on other entitlements	With pay does count as service for all purposes. Without pay does not count as service for any purpose.
Leave for:	**18. Cope with a disaster**
Purpose	The head of service may approve an employee's application to access leave when an employee is affected by a disaster which has destroyed or significantly damaged the employee's usual place of residence or its contents.
Eligibility	An employee whose home is wholly or partly uninhabitable associated with health or safety reasons.
Entitlement	A maximum period of 3 days in each consecutive period 12 months.
Conditions	-
Rate of payment	Full pay.
Effect on other entitlements	Will count as service for all purposes.

Leave for:	19. Engage in employment associated with compensation
Purpose	The head of service may approve an employee's application to access leave to enable an employee to engage in employment outside the ACTPS as part of a rehabilitation process under the *Safety, Rehabilitation and Compensation Act 1988.*
Eligibility	An employee who is, or was, entitled to compensation leave under the *Safety, Rehabilitation and Compensation Act 1988* and the employment is part of a rehabilitation process under that Act.
Entitlement	A maximum period of 3 years.
Conditions	-
Rate of payment	Without pay.
Effect on other entitlements	Will count as service for all purposes.

Leave for:	20. Engage in employment in the interests of the ACTPS
Purpose	The head of service may approve an employee's application to access leave to enable an employee to engage in work or employment outside the ACTPS where the head of service is satisfied that the employment is in the interests of the ACTPS.
Eligibility	An employee, (other than an employee) who meets one of the following: (a) They are a probationary employee. (b) They have 6 months or less continuous employment.
Entitlement	A maximum period of 5 years.

Conditions	-
Rate of payment	Without pay.
Effect on other entitlements	Will count as service for all purposes except for annual leave. If an employee does not return to duty with the ACTPS the leave will not count as service for any purpose.
Leave to:	**21.** ***Take leave where leave cannot be granted under any other provision***
Purpose	The head of service may approve an employee's application to access leave to enable an employee to be absent from duty where the leave cannot be provided for elsewhere.
Eligibility	An employee.
Entitlement	A maximum period of 12 months.
Conditions	-
Rate of payment	Without pay, except where the head of service determines there are special circumstances, having regard to: (a) the purpose for which the leave is being taken; and (b) the length of service of the employee; and (c) the length of the period for which the leave is being taken. In special circumstances the head of service determines whether leave is at full pay or half pay.
Effect on other entitlements	Leave without pay will not count as service for any purpose. However where the head of service determines there are special circumstances and that the period of leave granted is to be with pay then the paid leave will count as service for all purposes.

DICTIONARY

In this Agreement:

Accrued Day Off (ADO) means a day/shift off duty for a nurse or midwife who has worked in excess of the standard 38 hour week (i.e., who has worked two hours extra per week over a four week period).

ACTPS means the public sector established by the *Public Sector Management Act 1994*.

Agreement means the ACT Public Sector Nursing and Midwifery Enterprise Agreement 2023-2026 and all Annexes and Schedules.

Appointed means an appointment in accordance with Part 5 Division 5.3 of the *PSM Act*.

Assisted Reproductive Leave means the following assisted reproductive treatments: Intrauterine insemination (IUI), In vitro fertilisation (IVF) and Intracytoplasmic sperm injection (ICSI) and related medical appointments.

Business Day means any day of the week that is a Monday to Friday, which is not a Public Holiday.

Business Unit means any particular work unit in the ACTPS; e.g. a section, branch, division, project team or administrative unit.

Carer means an employee who provides, in addition to the employees' normal family responsibilities, care and support on a regular basis to other family members or other persons who are sick or ageing, have an injury, have physical or mental illness, or a disability.

Casual Employee means a person engaged under section 111 of the PSM Act to perform work with no firm advance commitment to continuing and indefinite work according to an agreed pattern of work.

Child includes children in the case of multiple births.

Clinical Nurse Consultant/Clinical Midwife Consultant Level 3 means an employee who is registered with the ACT Nursing and Midwifery Board who is responsible for the quality of clinical nursing care provided in a ward or clinical unit or to a specified group of patients/clients.

Consultation means providing relevant information to nurses or midwives and their union or other employee representatives. It means more than a mere exchange of information. For consultation to be effective the participants must be contributing to the decision-making process not only in appearance but in fact.

Counts as service for all purposes means also the provision of employer superannuation contributions to the extent of an employee's superannuation fund rules.

DCC means the Directorate Consultative Committee established under this Agreement.

Delegate means the head of service or the person authorised by the head of service to perform specific functions under this Agreement.

Directorate or Directorates means an administrative unit so named, or other government agency within the meaning of the PSM Act.

Director General means a person engaged under subsection 31(2) of the *PSM Act* as the director-general of a Directorate and includes a person who exercises head of service powers in relation to the appointment, engagement and employment of staff in a government agency in accordance with the PSM Act or other Territory law, but only in relation to staff of that government agency.

Disability means a permanent or ongoing physical or psychological disability attributable to one or more intellectual, cognitive, neurological, sensory or physical impairments or to one or more impairments attributable to a psychiatric condition.

Domestic Partner means someone who lives with the person in a domestic partnership, and includes a spouse of the person.

Domestic Partnership means a relationship between two people, whether of a different or the same sex, living together as a couple on a genuine domestic basis.

Eligible Casual Employee means an employee for which all of the following apply:

a) They have been employed as a casual employee; and
b) They have been employed by the ACTPS on a regular and systematic basis for a sequence of periods of employment during a period of at least 12 months; and
c) They have a reasonable expectation of continuing to be employed by the ACTPS on a regular and systematic basis.

Employee means (unless there is a clear intention in this Agreement to restrict the meaning) an officer or a casual employee or a temporary employee who is employed or engaged under the PSM Act in a classification(s) set out in Schedule 1 except for:

a) a person engaged as head of service under Sections 23C or 23J of the PSM Act,
b) persons engaged as directors-general under Sections 28 or 30 of the PSM Act,
c) or persons engaged as executives under Sections 72 or 76 of the PSM Act.

Employee Representative means any person chosen by an employee, or a group of employees, to represent the employee(s).

Fair Work Act or FW Act means the *Fair Work Act 2009*, as varied.

Family Violence is as defined under the Family Violence Act (ACT) 2016.

FWC means Fair Work Commission.

FW Regulations mean the *Fair Work Regulations 2009*.

Head of Service means a person engaged under Section 31(1) of the PSM Act as the head of service or a person who exercises head of service powers in relation to the appointment, engagement and employment of staff in a government agency in accordance with the PSM Act or other territory law, but only in relation to staff of that government agency.

Household Member means a person (other than the employee's immediate family) residing in the employee's normal place of residence at the time of their illness, injury, emergency or death.

Immediate Family means a person who is any of the following:

a) a domestic partner (including a former domestic partner);

b) a child or an adult child , parent, grandparent, grandchild or sibling of the employee or domestic partner of the employees;

c) a person related to the employee by Aboriginal and/or Torres Strait Islander kinship structures;
d) a child who is the subject of a permanent caring arrangement; or
e) an adopted child.

'Immediate family' includes adopted, step-, fostered or ex-nuptial immediate family where these circumstances exist.

Additionally, the head of service may consider that the definition of 'immediate family' be extended for a particular decision involving an employee where exceptional circumstances exist. This might include other close family members or an employee who lives alone and has no-one to nominate as 'immediate family', may nominate one person, in similar circumstances, for the purpose of caring responsibilities.

Long-term temporary means a person who is engaged under the PSM Act for a period of 12 months or more.

Manager means a person who has responsibility for planning, organising and leading a work unit or group activity.

Miscarriage is as defined under the *Fair Work Act 2009* (Cth).

National Employment Standards means Part 2-2 of the *Fair Work Act 2009* (Cth), as amended from time to time.

Officer means a person who is appointed as an officer under Division 5.3 of the PSM Act. Note: Permanent staff are officers.

Permanent or Long Term Caring Responsibility means an out of home care placement for a child until the child turns 18 as defined by the *Children and Young People Act 2008* (ACT) or as defined under equivalent legislation within other Australian states or territories.

Primary Care Giver is a person who is the primary carer of a child in the person's reference period if the child is in the person's care in that period and the person meets the child's physical needs more than anyone else in that period.

Public Sector Management Act or (PSM Act) means the *Public Sector Management Act 1994* as varied or replaced.

Public Sector Management Standards or (PSM Standards) means the Public Sector management Standards as varied made under Section 251 of the *Public Sector Management Act*.

Public Sector Standards Commissioner means a person appointed under Section 142 of the PSM Act.

Registered Health Professional means a health professional registered, or licensed, as a health professional (or as a health professional of a particular type) under a law of a state or territory that provides for the registration or licensing of health professionals (or health professionals of that type), and includes:

- Medical Practitioners
- Doctors
- Specialists
- Nurses and Midwives
- Dentists, Dental Technicians and Prosthetists

- Optometrists
- Physiotherapists
- Chiropractors
- Occupational Therapists
- Psychologists
- Medical Radiation Scientists
- Osteopaths
- Pharmacists
- Podiatrists

Registered Medical Practitioner means a person registered, or licensed, as a medical practitioner under a law of a state or territory that provides for the registration or licensing of medical practitioners.

Registered Midwife means a person whose name is included in the Register of Midwives kept by the National Board for midwifery.

Note: Midwife is the protected title under National Law for Midwives registered with the Australian Health Practitioner Regulation Agency (AHPRA).

Rostered Days Off (RDOs) means any two or more days off duty in any one-week period other than an Accrued Day Off (ADO).

Rostered hours means the shift or work pattern as described in the posted roster for employees.

Service or **ACT Public Service** or **ACTPS** means the ACT Public Service established by the PSM Act.

Short Term Care means an out of home care placement for a child (or children) of up to two years duration as defined by the *Children and Young People Act 2008* (ACT) or as defined under equivalent legislation within other Australian states or territories.

Short-term temporary employee means an employee engaged under the PSM Act for a period of less than 12 months.

Standard Hours are the hours used for calculating salary and leave entitlements. For a 36.75 hours per week position standard hours are from 8:30 am to 12:30 pm and from 1:30 pm to 4:51 pm Monday to Friday and for a 38 hours per week position standard hours are from 8:30 am to 12:30 pm and from 1:30 pm to 5:06pm pm Monday to Friday (unless otherwise agreed in writing by the employee and the manager or supervisor).

Stillbirth/Stillborn child is as defined under the *Fair Work Act 2009* (Cth).

Strategic Board means the senior management team, comprising the head of service and the eight directors-general, responsible for providing whole-of-government leadership and strategic direction to the ACT Public Service.

Supervisor means a person who has direct supervisory responsibility for one or more nurses or midwives in a business unit or group activity.

Supervision means the oversight, direction, instruction, guidance and/or support provided to an employee by the registered nurse/midwife responsible for ensuring such an employee is not placed in situations where required to function beyond his or her preparation and competence. Specifically:

> **direct supervision** means the employee works side by side continuously with a registered nurse/midwife responsible for observing and directing his or her activities in circumstances where, in the judgment of the registered nurse/midwife, such an arrangement is warranted in the interests of safe and/or effective practice;

indirect supervision means such other supervision provided to an employee assuming responsibility for functions delegated by a registered nurse/midwife in circumstances where, in the judgment of the registered nurse/midwife accountable for such delegation, direct supervision of the employee is not required.

Temporary Employee means a person engaged under the PSM Act for a specific period of time or for a specified task under Division 5.8 of the PSM Act, excluding a person engaged under section 31(1) of the PSM Act as head of service, persons engaged as directors-general under section 31(2) of the PSM Act or persons engaged as executives under section 31(2) of the PSM Act.

Union(s) means a union(s) which are covered by this Agreement, who are registered under the *Fair Work (Registered Organisations) Act 2009* (Cth).

WCC means the Workplace Consultative Committees established under paragraph 156.6.4 and subclause 156.7of this Agreement.

WHS Act means the *Work Health and Safety Act 2011*.

SIGNATORY PAGE TO

ACT Public Sector Nursing and Midwifery

ENTERPRISE AGREEMENT 2023-2026