

PRIOR SERVICE RECOGNITION REQUEST**Australian Government****Australian Public Service Commission**

This form is used to obtain the information required to recognise an employee's prior service for leave purposes. Please complete the required section(s).

THIS SECTION IS TO BE COMPLETED BY THE EMPLOYEE

Employee's Details

Surname:

Given Name(s):

Date of Birth:

Previous Department:

Period of Prior Service:

Please send this form to the Personnel department of your previous employer.

THE FOLLOWING SECTIONS ARE TO BE COMPLETED BY THE PRIOR SERVICE ORGANISATION

FULL-TIME SERVICE

1. Date commenced continuous full-time service: _____
2. Date of, and reason for, ceasing full-time service: _____
3. Remuneration was by way of (cross out where not applicable):
 - * Salary or wages
 - * Fees, Allowances or Commission only
4. Total period of leave without pay not counting as service in excess of 30 calendar days during full-time service.

From: _____	To: _____	No of calendar days: _____
From: _____	To: _____	No of calendar days: _____
From: _____	To: _____	No of calendar days: _____
From: _____	To: _____	No of calendar days: _____

PART-TIME/CASUAL SERVICE

5. Date commenced continuous part-time/casual service: _____

Hours per week: _____

OR

Average hours per week during casual service: _____

6. Date of, and reason for, ceasing part-time/casual service: _____

If there are numerous changes of hours please set these out in an attachment.

7. Total period of leave without pay not counting as service in excess of 30 calendar days during part time service.

From: _____ To: _____ No of calendar days: _____

From: _____ To: _____ No of calendar days: _____

From: _____ To: _____ No of calendar days: _____

From: _____ To: _____ No of calendar days: _____

LONG SERVICE LEAVE

7. Was any long service leave taken? _____

If yes, please attach leave history records.

8. Was any long service leave paid out on termination? _____

If yes, please provide total long service leave paid in lieu (in months): _____

SICK LEAVE

9. Sick leave balance at cessation (in hours): _____

Rate of Accrual (monthly, annually, etc): _____

Date of Last Credit: _____

ANNUAL LEAVE (complete only if the balance wasn't paid out)

10. Annual leave balance at cessation (in hours): _____

Rate of Accrual (monthly, annually, etc): _____

Date of Last Credit: _____

THE FOLLOWING CERTIFICATION IS TO BE COMPLETED BY THE PRIOR SERVICE ORGANISATION

The above details are certified as correct:

Name: _____

Title: _____


Organisation: _____

Email Address: _____

Phone Number: _____

Signature & Date: _____

Thank you for your assistance.

Please return this form directly to the Payroll team at the Service Delivery Office on behalf of the Australian Public Service Commission at s 47E(d) 



Australian Government
Australian Public Service
Commission

AUSTRALIAN PUBLIC SERVICE COMMISSION ENTERPRISE AGREEMENT 2018–21

Information about the approval of this agreement:

- The Australian Public Service Enterprise Agreement 2018-21 (AG2018/3263) was approved by the Fair Work Commission on 31 October 2018.

- The Agreement was approved with the following undertaking, which should be taken to be a term of the agreement:

The Australian Public Commission will undertake that, notwithstanding clause 50 of the Australian Public Service Commission Enterprise Agreement 2018–21, where periods of work placement exceed 12 weeks in any calendar year for a Cadet APS, the salary paid for additional work placement will be 100% of the minimum salary point of an APS 1.

- The Agreement commenced on 7 November 2018.

The Public Service Commissioner signed a s24(1) Determination under the *Public Service Act 1999* to bring forward the payment of the first salary increase to 5 October 2018, 12 weeks after the agreement was approved by employees.

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Part A Formal acceptance of Agreement and Signatories

Employer

Signed for, and on behalf of, the Commonwealth by the Australian Public Service Commissioner¹

Signed 

Full Name: John Lloyd PSM

Agency: Australian Public Service Commission

Address: B Block, Treasury Building, Parkes West Place, Parkes ACT 2600

Bargaining Representative: Community and Public Sector Union

Signed for, and on behalf of, the Community and Public Sector Union:

Signed 

Full Name: Beth Vincent-Pietsch

Role: Deputy Secretary

Address: 40 Brisbane Avenue, Barton, ACT 2600

¹ The Australian Public Service Commissioner is the Agency Head of the Australian Public Service Commission by virtue of s40(3)(b) of the Public Service Act.

Part B Operation of the Agreement

Title

1. This Agreement is made under section 172 of the Fair Work Act and shall be known as the Australian Public Service Commission Enterprise Agreement 2018-21.

Coverage

2. In accordance with section 53 of the Fair Work Act, this Agreement covers:
 - a) The Australian Public Service Commissioner on behalf of the Commonwealth of Australia; and
 - b) Employees of the Commission who are employed in accordance with section 22(2) of the Public Service Act, except employees engaged as Senior Executive Service employees.

Commencement and duration

3. This Agreement will commence operation seven days after approval by the Fair Work Commission.
4. This Agreement shall nominally expire three years from the date of commencement.

Delegation

5. The Commissioner may, in writing, delegate any of the Commissioner's powers or functions under this Agreement, other than under this clause.
6. A person exercising powers or functions under clause 5 must comply with any direction of the Commissioner.

National Employment Standards

7. Nothing in this Agreement reduces the entitlement available to an employee under the National Employment Standards (NES).

Policies and guidelines

8. The operation of this Agreement is supported by policies, procedures and guidelines. These policies, procedures and guidelines do not form part of this Agreement. If there is any inconsistency between the policies, procedures and guidelines and the terms of this Agreement, the express terms of this Agreement will prevail.
9. The Commission and its employees agree that such policies and guidelines will be available to all employees and will be updated as necessary following reasonable consultation.

Domestic and family violence support

10. The Commission is committed to supporting employees affected by domestic and family violence. The Commission will provide employees with leave and support in accordance with this Agreement.
11. Further information can be found in the Domestic and Family Violence Support Guide.

Diversity and inclusion

12. The Commission is committed to supporting and promoting a diverse and inclusive workplace that values and utilises the contributions of people with different backgrounds, experiences and perspectives.

Individual Flexibility Arrangement

13. The Commissioner and an employee covered by this Agreement may agree to make an Individual Flexibility Arrangement (IFA) to vary the effect of any of the terms of this Agreement, where the arrangement meets the genuine needs of the employee and Commission.
14. The Commissioner must ensure that an IFA agreed to under this clause:
 - a) is about permitted matters under section 172 of the Fair Work Act;
 - b) does not include unlawful terms under section 194 of the Fair Work Act;
 - c) results in the employee being better off overall than if no arrangement was agreed to;
 - d) is in writing;
 - e) is signed by both the employee and the Commissioner, and, if the employee is under 18, is signed by their parent or guardian;
 - f) is able to be terminated by either the employee or the Commissioner giving not more than 28 days written notice, or at any time by agreement between the employee and the Commissioner in writing; and
 - g) is given to the employee within 14 days after it is agreed to.
15. An IFA must be genuinely agreed between the employee and the Commissioner.

Procedures for preventing and settling disputes

16. If a dispute relates to:
 - a) a matter arising under the agreement; or
 - b) the NES;this term sets out procedures to settle the dispute.
17. An employee who is a party to the dispute may appoint a representative for the purposes of the procedures in this term.
18. In the first instance, the parties to the dispute must try to resolve the dispute at the workplace level, by discussions between the employee or employees and relevant supervisors and/or management.
19. If discussions at the workplace level do not resolve the dispute, a party to the dispute may refer the matter to Fair Work Commission.

20. The Fair Work Commission may deal with the dispute in two stages:
- a) the Fair Work Commission will first attempt to resolve the dispute as it considers appropriate, including by mediation, conciliation, expressing an opinion or making a recommendation; and
 - b) if the Fair Work Commission is unable to resolve the dispute at the first stage, the Fair Work Commission may then:
 - i. arbitrate the dispute; and
 - ii. make a determination that is binding on the parties.

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

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

21. While the parties are trying to resolve the dispute using the procedures in this term:
- a) an employee must continue to perform their work as they would normally unless they have a reasonable concern about an imminent risk to their health or safety; and
 - b) an employee must comply with a direction given by the Commissioner to perform other available work at the same workplace, or at another workplace, unless:
 - i. the work is not safe; or
 - ii. applicable occupational health and safety legislation would not permit the work to be performed; or
 - iii. the work is not appropriate for the employee to perform; or
 - iv. there are other reasonable grounds for the employee to refuse to comply with the direction.
22. The parties to the dispute agree to be bound by a decision made by the Fair Work Commission in accordance with this term.

Review of decisions to terminate employment

23. Termination of, or a decision to terminate, employment cannot be reviewed under the procedures for preventing and settling disputes or under the review of actions procedures at section 33 of the Public Service Act.

Part C Remuneration Arrangements

Salary rates

24. Salary ranges and pay points to apply under this Agreement are set out in Appendix 1.

Annual productivity salary increases

25. Employees will receive a productivity salary increase of:
- a) 2.0% on commencement of the Agreement;
 - b) 2.0% 12 months after commencement; and
 - c) 2.0% 24 months after commencement.
26. No qualifying period applies in relation to an employee's eligibility to receive a productivity salary increase.

Salary maintenance – existing employees

27. An employee in receipt of a salary above the salary range published at Appendix 1, for their classification and pay point on commencement of this Agreement, will have their salary maintained at that higher rate. These arrangements will continue until the relevant rate of pay in Appendix 1 equals or exceeds the employee's maintained salary, at which time the applicable salary in Appendix 1 will apply.

Salary advancement

28. Subject to this Agreement, an employee may achieve a further salary increase on 1 July each year. Salary advancement through the pay points relevant to the employee's classification, is based on the outcome of the employee's participation in the Commission's performance management framework.
29. The performance management framework in Part J of this Agreement includes rules about eligibility for performance based salary advancement, including the qualifying period.
30. The Commissioner may approve pay point movements within individual classifications in other circumstances.

Payment of salary

31. Employees will have their fortnightly salary paid in arrears by electronic funds transfer into a financial institution account of their choice.

Flexible Remuneration Packaging Scheme

32. Access to flexible remuneration packaging via the Commission's Flexible Remuneration Scheme, as varied from time to time, will be available to all employees, including casual employees, covered by this Agreement.
33. Where an employee takes up the option of flexible remuneration packaging on a 'salary sacrifice' basis, the employee's salary for purposes of superannuation, severance and termination

payments (and any other agreed purpose), will be determined as if the flexible remuneration packaging arrangement had not been entered into.

Salary on engagement, assignment or promotion

34. Where an employee is engaged or promoted within or to the Commission, salary will be payable at the minimum point of the relevant salary range. The Commissioner may authorise payment of salary above the minimum point in that salary range.
35. An employee, to whom clause 34 applies, may discuss salary with the Commissioner before taking up the assigned duties. The qualifying periods for salary advancement under the performance management framework will be taken into account in this discussion.
36. Where an employee is assigned new duties within, or moves to the Commission at the employee's existing classification, salary will be payable at the point of the applicable classification salary range outlined at Appendix 1 as determined by the Commissioner.

Salary on temporary assignment to the Commission from another agency at a higher classification

37. Where an employee is temporarily assigned higher duties in the Commission from another APS agency under section 26 of the Public Service Act, salary will be payable at the minimum point of the applicable classification salary range outlined at Appendix 1, unless determined otherwise by the Commissioner.

Salary maintenance on movement to the Commission

38. At the discretion of the Commissioner, an employee moving to the Commission from another Agency (the "other Agency") whose salary at the other Agency (current salary) exceeds the current maximum of the relevant classification in this Agreement, may be maintained on their current salary until such time as their salary is commensurate with the relevant Commission salary. This salary maintenance will be managed in the same manner as provided for in clause 27.

Salary on temporary assignment within the Commission

39. Where an employee is temporarily assigned duties with a higher classification for a continuous period of 20 working days or more, the employee will be paid at the minimum pay point of the salary range applicable to that classification, unless otherwise determined by the Commissioner. Payment will be made from the commencement of the temporary assignment.
40. Where an employee is temporarily assigned duties for a period less than 20 working days, which is then extended to or beyond 20 working days, the employee will receive payment in accordance with clause 39.
41. The Commissioner may determine, in exceptional circumstances, that an employee who is temporarily assigned duties at a higher classification for a period less than 20 working days, will receive payment in accordance with clause 39.
42. These arrangements apply to each new period of temporary assignment.
43. These arrangements also apply where an employee is temporarily assigned duties to an SES role, unless alternate salary arrangements are determined by the Commissioner.

Salary on reduction to duties with a lower classification

44. Where the classification of an employee is reduced, on either a temporary or ongoing basis in accordance with the provisions of this Agreement and/or the provisions of the Public Service Act, salary will be determined by the Commissioner having regard to:
- a) the experience, qualifications and skills of the employee;
 - b) the salary payable to, and classification of the employee in respect of the duties they performed before the new duties were assigned;
 - c) the classification of the employee in relation to the new duties; and
 - d) work level standards.
45. Where the reduction in classification is a result of workforce adjustment outlined in Part K of this Agreement, an employee's reduced salary will take effect after the expiration of an income maintenance period determined in Part K.
46. Where the reduction in classification is employee-initiated, no income maintenance period will apply.

Rate of salary – casual loading

47. A casual employee will be paid a 20% loading in lieu of public holidays on which they are not rostered to work and paid leave entitlements, except long service leave.
48. Where an APS 1–6 casual employee is required to work a public holiday, they will be paid in accordance with clause 182.

Cadet rates

49. The Commissioner may engage a person as a Cadet APS.
50. A Cadet APS employee will be paid 67% of the minimum salary point of APS 1.
51. When the Commissioner is satisfied that the course of training has been successfully completed, a Cadet APS employee will be allocated a classification in accordance with the Classification Rules and the Commissioner will determine a salary within the applicable range.

Trainee rates

52. The Commissioner may engage a person as a Trainee APS (Administrative).
53. A Trainee APS (Administrative) employee will be paid at the minimum salary point of APS 1 or such other salary point as determined by the Commissioner.
54. When the Commissioner is satisfied that the course of training has been successfully completed, a Trainee APS (Administrative) employee will be allocated a classification in accordance with the Classification Rules and the Commissioner will determine a salary within the applicable range.

Graduate rates

55. The Commissioner may engage a person as a Graduate APS.

56. A Graduate APS employee will be required to undertake a course of training determined by the Commissioner. While undertaking training, a Graduate APS employee will be paid at a salary point within the APS 3 classification of the APS3/4 Broadband, as determined by the Commissioner.
57. When the Commissioner is satisfied that the course of training has been successfully completed, a Graduate APS employee will be allocated a classification in accordance with the Classification Rules. The Commissioner will then assign duties within the APS4 classification of the APS3/4 broadband and determine salary.

Supported Wage System

58. Supported wage rates may apply to an employee with a disability who is eligible for consideration under the Supported Wage System set out in Appendix 2.

Superannuation

59. The Commission will make compulsory employer contributions as required by the applicable legislation and fund requirements.
60. The Commission will provide an employer contribution of 15.4% of Ordinary Time Earnings (OTE) for members of the Public Sector Superannuation Accumulation Plan (PSSap) and for those employees exercising superannuation choice.
61. Employer superannuation contributions will be paid to accumulation superannuation funds during periods of paid and unpaid parental leave (including maternity, parental, adoption and foster care leave) for periods of leave to a maximum of 52 weeks.
62. The Commission will make employer superannuation payments to any eligible superannuation fund nominated by an employee, provided that it accepts payment by fortnightly electronic funds transfer (EFT) using a file generated by the Commission's payroll system.

Classification structure

63. The Commission classification structure under the Agreement will consist of the following:
- EL 2
 - EL 1
 - APS 6
 - APS 5
 - APS 3/4 Broadband (covering both APS Level 3 and APS Level 4 classifications)
 - APS 1/2 Broadband (covering both APS Level 1 and APS Level 2 classifications)
 - Graduate APS
 - Cadet APS
 - Trainee APS (Administrative)
64. Movement between classifications within a broadband may only occur if:
- a) sufficient work is available at the higher classification level;
 - b) the employee has gained the necessary skill and proficiencies to perform duties in accordance with the work level standards for that classification; and
 - c) the employee achieves satisfactory performance within the annual performance cycle in accordance with clauses 199 to 206.
65. The provisions of clause 64 do not affect the temporary assignment of duties at a higher classification outlined at Part C.
66. Where an employee has moved between classifications within a broadband in accordance with clause 64, the employee will be advised of their new classification.

Portability of accrued annual leave and personal/carer's leave entitlements

67. Where an employee is engaged by the Commission as either an ongoing or non-ongoing APS employee following a period of ongoing employment with an employer staffed under the Parliamentary Services Act or from the ACT Government Service, the employee's unused accrued annual leave and personal/carer's leave (however described) will be transferred, provided there is no break in continuity of service.
68. Where an employee moves (including on promotion or for an agreed period) from another Agency where they were an ongoing APS employee, the employee's unused accrued annual leave and personal/carer's leave (however described) will be transferred provided there is no break in continuity of service.
69. Where a person is engaged as an employee and immediately prior to the engagement the person was employed as a non-ongoing APS employee, the Commissioner may, at the employee's request, recognise any accrued annual leave and personal/carer's leave (however described), provided there was no break in continuity of service. Any recognised annual leave excludes any accrued annual leave paid out on separation.
70. The use of leave credits transferred to the Commission will be in accordance with Part E of this Agreement.

Annual leave**Entitlement**

71. An employee is entitled to 20 days annual leave for each year of service, which accrues progressively.

Conditions

72. Accrued annual leave may be taken at any time, subject to operational requirements and the approval of the Commissioner.
73. An employee with more than 60 days accrued annual leave may be directed to take annual leave. An employee will not be directed to take more than 25% of their accrued annual leave at the time of the direction.
74. Where an employee has their leave cancelled or is recalled to duty from leave by the Commissioner, the employee may be reimbursed reasonable costs, as determined by the Commissioner, for travel and incidental expenses not otherwise recoverable under any insurance or from any other source.
75. The Commissioner may approve up to 40 days annual leave at half pay in any 12 month period. Annual leave will be deducted at half the rate for the period of the absence.
76. Unless approved by the Commissioner, employees with an annual leave accrual of more than 30 days at the time of application cannot access annual leave at half pay.
77. An employee is not eligible to utilise annual leave at half pay in the 12 months following an approved application to purchase leave.

Cash out

78. The Commissioner may approve an application from an employee to cash out a portion of the employee's accrued annual leave credits. To be eligible to cash out annual leave, employee's must:
- a) have taken at least 15 days annual leave in the 12 months immediately preceding the request to cash out annual leave; and
 - b) have at least 20 days accrued annual leave remaining.
79. The employee will be paid the full amount that would have been paid had the employee taken the entitlement as leave.
80. Each cashing out of a particular amount of annual leave must be by a separate agreement in writing with the Commissioner.

Long service leave

81. The entitlement to long service leave is provided for under the Long Service Leave Act.
82. An eligible employee may access, with approval from the Commissioner, long service leave for a minimum period of seven calendar days at full pay or 14 calendar days for leave at half pay. Long service leave cannot be broken with other periods of leave, except as otherwise provided by legislation.

Substitution of leave

83. Where an employee on annual leave or long service leave becomes eligible for leave that is required to be granted in accordance with the NES, such as personal/carer's leave, compassionate leave or community service leave but excluding parental leave, the Commissioner may approve substitution. Approval of another type of leave is subject to the provision of satisfactory evidence. Annual leave and/or long service leave accruals will be reimbursed to the extent of any other paid leave granted.

Payment on separation

84. On separation from the APS, the employee will be paid out leave entitlements in accordance with the Fair Work Act and Long Service Leave Act.
85. Where an employee dies, or is presumed to have died on a particular date, the Commissioner may authorise payment to be made to dependants, the partner of the former employee or the former employee's legal representative of all leave entitlements otherwise payable on resignation or retirement.

Purchased leave

86. An employee may, with the approval of the Commissioner, purchase up to four weeks' additional unpaid leave per year. Salary payments will be averaged over the whole year to ensure that a standard rate is received each fortnight. Purchased leave will count as service for all purposes.
87. An employee is not eligible to purchase leave in the 12 months following an approved application to utilise annual leave at half pay in accordance with clause 75 of this Agreement.

88. When an employee ceases employment with the Commission, the purchased leave balance and payments will be reconciled and payments recovered, or refunded as appropriate. Unused purchased leave is not transferable between agencies.

Personal/carer's leave

Entitlement

89. An employee is entitled to 18 days paid personal/carer's leave each year of service, which accrues progressively.
90. Unused personal/carer's leave will accrue from year to year but will not be paid out on separation.

Use

91. An employee may take personal/carer's leave for the following purposes:
- a) personal illness or injury;
 - b) to provide care or support to a family or household member who has a personal illness or injury or unexpected emergency; or
 - c) unforeseen personal emergency.
92. Leave for the purposes of clause 91(c) must not exceed eight days per calendar year.

Conditions

93. To use personal/carer's leave, an employee must provide acceptable evidence in the following circumstances:
- a) for personal/carer's leave of three consecutive working days or more;
 - b) for any personal/carer's leave in excess of a total of eight days in any calendar year where evidence has not been provided for any of those days; or
 - c) in any other circumstance where requested by the Commissioner.
94. Acceptable evidence will be evidence that would satisfy a reasonable person that the leave was taken for a permitted use as described in clause 91. This would generally be either a medical certificate or a statutory declaration. For leave other than personal injury, illness or caring purposes, suitable written reasons must be provided to an employee's manager.
95. An employee will not be entitled to paid personal/carer's leave while also entitled to paid maternity, adoption or foster care leave .
96. An employee will not, without the employee's consent, be retired on invalidity grounds before the employee's paid personal/carer's leave credit has expired unless otherwise provided for in legislation.

Additional personal leave

- 97. Where personal/carer's leave with pay is exhausted, and the employee provides a medical certificate for personal illness or injury, the Commissioner may approve additional personal leave. Additional personal leave will be without pay, unless determined otherwise by the Commissioner.
- 98. The Commissioner will determine whether additional personal leave without pay will or will not count for service, except for long service leave purposes.

Carer's leave without pay

- 99. Where an employee has exhausted their personal/carer's leave, and the employee provides suitable documentary evidence, two days per occasion of carer's leave without pay will be granted for caring purposes.
- 100. Casual employees who receive a loading in lieu of paid leave will have access to carer's leave without pay for caring purposes of two days per occasion consistent with the Fair Work Act.

Compassionate leave

- 101. An employee is entitled to three days paid compassionate leave for each permissible occasion when a member of the employee's family or employee's household:
 - a) contracts or develops a personal illness or sustained a personal injury that poses a serious threat to life; or
 - b) dies.
- 102. A casual employee may access three days of unpaid leave on each occasion that compassionate leave is required.
- 103. Compassionate leave may be taken as three consecutive days, or in periods equalling three days.

Miscellaneous leave

- 104. The Commissioner may approve a period of miscellaneous leave for an employee. The Commissioner will determine whether the period of absence is to be with or without pay.
- 105. The Commissioner may determine under clause 104 that only a part of the period of leave will be with pay.
- 106. Unless the Commissioner determines otherwise, any continuous period of miscellaneous leave without pay greater than 30 calendar days will not count as service for annual leave and personal/carer's leave purposes.

Maternity and parental leave

- 107. Eligible employees are entitled to 52 weeks maternity leave in accordance with the Maternity Leave Act.

108. Employees who are eligible for paid maternity leave under the Maternity Leave Act are entitled to an additional four weeks of paid leave, to be taken immediately following the period of paid maternity leave provided by the Maternity Leave Act.
109. Employees who adopt or foster (long-term) a child and who have responsibility for the care of that child, are entitled to up to 52 weeks of parental leave. An employee who has completed at least 12 months continuous service in the APS, and who is the primary caregiver of that child, is entitled to take the first 16 weeks as paid leave. Leave for adoption or long-term fostering purposes is available from one week prior to, but no later than, the date of placement of the child.
110. Employees are entitled to parental leave for adoption or long-term foster care when that child:
- a) is under 16 years of age;
 - b) has not, or will not have, lived continuously with the employee for a period of six months or more as at the day (or expected day) of placement; and
 - c) is not (otherwise than because of the adoption) a child of the employee or the employee's spouse/partner.
111. Documentary evidence of approval for adoption or enduring parental responsibilities under the formal fostering arrangements must be submitted when applying for parental leave for adoption or long-term foster carer purposes.
112. Employees who are eligible for paid maternity or parental leave may elect to have the payment for that leave spread over a maximum of 32 weeks at a rate no less than half normal salary. Where payment is spread over a longer period, a maximum of 16 weeks will count as service.
113. On ending the initial 52 weeks of maternity or parental leave, employees may request an extension of unpaid parental leave for a further period of up to 52 weeks. The second period of unpaid leave is to commence immediately following the initial 52 week leave period.
114. Unpaid maternity leave or parental leave, except for unpaid leave during the first 12 weeks, will not count as service for any purpose.
115. This leave is inclusive of public holidays and will not be extended because a public holiday, or Christmas closedown, falls during a period of paid or unpaid maternity or parental leave. On ending maternity or parental leave, employees have the return to work guarantee and the right to request flexible working arrangements that are provided by the Fair Work Act.

Supporting partner leave

116. An employee who is not the primary care giver to a dependent child is entitled to 15 days' paid supporting partner leave immediately following the birth or placement of their child for adoption or long-term fostering. Paid supporting partner leave counts as service for all purposes.
117. Supporting partner leave can be taken at half pay.
118. An employee who has responsibility for the care of a dependent child is entitled to a maximum of 12 months unpaid parental leave in accordance with the NES, provided they have completed 12

months continuous service in the APS. The 12 months is inclusive of any paid supporting partner leave provided in clauses 116 to 117.

- 119. An employee may make an application to the Commissioner for up to an additional 12 months unpaid parental leave immediately to follow the initial 12 month entitlement period.
- 120. Where an employee requests additional unpaid parental leave, in accordance with clause 113, and this request is denied, written reasons will be provided by the Commissioner.
- 121. The Commissioner may determine that all or part of the entitlement to parental leave, which would otherwise be unpaid, will be with pay. The Commissioner may determine that all or part of the entitlement to unpaid parental leave will count as service for any purpose.

Unpaid pre-adoption leave

- 122. An employee is entitled to up to two days' unpaid pre-adoption leave to attend any interviews or examinations required in order to obtain approval for the employee's adoption of a child in accordance with section 85 of the Fair Work Act.

Defence reserve leave

- 123. An employee may be granted defence reserve leave, with or without pay, to enable the employee to fulfil service in the Australian Defence Force (ADF) Reserve and Continuous Full Time Service (CFTS) or Cadet Force obligations.
- 124. An employee is entitled to defence reserve leave with pay, of up to four weeks during each financial year, and an additional two weeks paid leave in the first year of ADF Reserve Service, for the purpose of fulfilling service in the ADF Reserve.
- 125. With the exception of the additional two weeks in the first year of service, leave can be accumulated and taken over a period of two years.
- 126. An employee who is an officer or instructor of cadets in a Cadet Force may be granted paid leave of up to three 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.
- 127. 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.

War service sick leave

- 128. Employees may be eligible to be granted war service sick leave while unfit for duty because of a psychological or physical illness, disease or injury that has been determined by the Department of Veterans' Affairs, within the meaning of the relevant legislation, to be caused by war, war-like or non-war-like service, which could include hazardous or peacekeeping service.
- 129. Eligible employees will accrue a special credit of nine weeks on commencement in the APS and an annual credit of three weeks for each year of APS service. Unused credits will accumulate to a maximum of nine weeks.

Community service (emergency management and jury service) leave

130. In accordance with section 108 of the Fair Work Act, an employee who engages in an eligible community service activity will be granted leave for participation in emergency management duties for periods that consist of one or more of:
- a) time engaged in the activity;
 - b) reasonable travelling time associated with the activity;
 - c) reasonable rest time immediately following the activity; and
 - d) ceremonial duties.
131. The Commissioner may determine whether any or all of leave taken for participation in voluntary emergency management activities will be with pay.
132. An employee will continue to be paid by the Commission for any period of jury service, but will be required to pay to the Commission any amount of jury service pay received by the employee with the exception of any expense-related allowances received.

Public holidays

133. An employee is entitled to public holidays in accordance with section 115 of the Fair Work Act.
134. Where the Commissioner and an affected employee agree, another day may be substituted for any public holiday.
135. An employee, who is absent on a day or part-day that is a public holiday in the place where the employee is based for work purposes, is entitled to be paid for the part or full day absence as if that day or part-day was not a public holiday, except where the employee would not normally have worked on that day.
136. Where a public holiday falls during a period when an employee is absent on leave (other than annual leave or paid personal/carer's leave) there is no entitlement to receive payment as a public holiday. Payment for that day would be in accordance with the entitlement for that form of leave (e.g. if on long service leave at half pay, payment is at half pay).

Christmas closedown

137. The Christmas closedown applies between 25 December until the commencement of the first working day following 1 January.
138. There will be no requirement to take annual leave or use accrued flextime over this period.
139. An APS 1-6 employee who is directed by the Commissioner, due to exceptional circumstances, to be on duty during the Christmas closedown period, will be entitled to accrue additional flextime at one and a half hours for each hour worked. An executive level employee will be entitled to time off in lieu in accordance with clause 189.

Payment for work outside the standard bandwidth

140. On each occasion that an employee at an APS 1–6 classification or a training classification, excluding casual employees, is directed by the Commissioner:
- a) to work outside the standard, or varied, bandwidth as defined in Part H of this Agreement;
 - b) to return to duty for reason of urgent work requirements at a time when they would not otherwise be on duty; or
 - c) in the case of a regular part-time employee, to work outside regular agreed hours for a continuous period of at least two hours,
- the employee will be entitled in recognition of additional incurred costs and inconvenience to a payment of \$85. Eligible employees will also be entitled to accrue flextime credits in accordance with Part H of this Agreement.
141. Where a part-time employee is directed to work an additional standard day/s, as defined in clause 163, the employee will be paid for additional day/s worked.
142. Clause 140 does not apply where an employee is undertaking official travel as defined in Part G of this Agreement.
143. An employee may, with reasonable cause, decline to work outside the standard bandwidth or, in the case of a regular part-time employee, outside regular agreed hours.

First aid allowance

144. An employee who is appointed as a First Aid Officer by the Commissioner, will be paid a fortnightly allowance of:
- a) \$25.44 from commencement of the Agreement;
 - b) \$25.95 12 months after commencement; and
 - c) \$26.47 24 months after commencement.

Departmental Liaison Officer duties allowance

145. An employee who is assigned the duties of Departmental Liaison Officer is entitled to an allowance at the annual rate of:
- a) \$17,516 from commencement of the Agreement;
 - b) \$17,866 12 months after commencement; and
 - c) \$18,223 24 months after commencement.

Loss, damage and indemnity

146. The Commissioner may approve reimbursement to an employee for loss or damage to clothing or personal effects which occurred in the course of the employee's work. This reimbursement is not subject to tax instalment deductions.

Relocation assistance

147. The Commissioner may approve reasonable relocation assistance for an employee.

Use of private motor vehicle allowance

148. The Commissioner may approve an employee using their own vehicle, or a vehicle hired at the employees expense, for official purposes where the Commissioner considers that it will result in greater efficiency or involves less expense for the Commission.
149. Motor vehicle allowance will be paid in accordance with the rates set by the Australian Taxation Office.

Payment of travel expenses

150. An employee who is required to travel on official business will be provided with an Australian Government Credit Card which should be used to pay reasonable out of pocket expenses for accommodation, meals and incidentals while on official travel.
151. Reasonable travel expenses are consistent with the rates set by the Australian Taxation Office.
152. The Commissioner may approve expenses in excess of the Australian Taxation Office reasonable travel expense rates.
153. Where it is impractical to use the Australian Government Credit Card, reasonable out of pocket expenses, as determined by the Commissioner, will be reimbursed on the production of receipts.

Living away from home expenses

154. When an employee is required to undertake official travel, excluding travel under clause 156, which results in the employee residing in one locality for a period of at least 21 days, a reviewed payment which is equal to the actual amount expended on accommodation, incidentals and additional meals, or an amount which the Commissioner considers to be reasonable in the circumstances, will apply.

Official travel overseas

155. An employee who is required to undertake official travel overseas will be provided with an Australian Government Credit Card or a cash advance that is to be acquitted, to meet reasonable accommodation, meal and incidental expenses. The cash advance will be administered on a case-by-case basis having regard to issues such as accepted processes for the payment of accounts in the country being visited and projected expenses where payment by credit card is not an option.

Overseas arrangements

156. An employee who is required to travel overseas as part of the Commission's obligation to the Department of Foreign Affairs and Trade, under the international aid program, will have their conditions of employment for the period of their overseas travel determined by the Commissioner.

Recognition of travel time

157. Official domestic travel, wherever possible, should be undertaken during the standard bandwidth in accordance with clause 167.

- 158. When an employee at the APS 1-6 classification or a training classification is required to undertake official domestic travel, time spent in transit may be recorded as standard hours, with flextime to accrue in accordance with clauses 172 to 179.
- 159. Arrangements for executive level employees undertaking official domestic travel will be in accordance with clauses 187 to 189.
- 160. It is not always possible for official overseas travel to be undertaken during the standard bandwidth. Arrangements for employees required to undertake international travel will be determined by the Commissioner.
- 161. Further information can be found in the Overseas Travel Guide.

Part H Flexible Work Environment

Hours of work

- 162. The hours of work for a full-time employee are 150 hours over a four-week settlement period.
- 163. The standard working day is seven hours and thirty minutes (7 hours 30 minutes).
- 164. An employee should not work more than 10 hours per day unless directed to do so.
- 165. An employee must not work for more than five hours without an unpaid break of at least 30 minutes.
- 166. Once it has been established that an employee is absent from duty without approval, all pay and other benefits provided under this Agreement, will cease to be available until the employee resumes duty or is granted leave in accordance with this Agreement.

Bandwidths

- 167. The standard bandwidth is between the hours of 7.00am and 7.00pm, Monday to Friday.
- 168. Hours worked within the standard bandwidth are ordinary time.
- 169. Payment for work outside the bandwidth is described at clause 140.

Varying the bandwidth

- 170. The bandwidth may be varied to an alternative 12 hour period on any day by agreement, in writing, between the Commissioner and an employee, excluding casual employees. An employee's ordinary hours are those hours within the varied bandwidth that the employee works on a regular basis, as agreed by the employee's manager.
- 171. Employees will not be required to vary their bandwidth.

Flextime

- 172. An employee, excluding casual employees, at an APS 1–6 classification or a training classification may access flextime arrangements under this Agreement.
- 173. The Commissioner will administer these arrangements in a way which meets the Commission's operational requirements and responsibilities. Where possible, the Commissioner will take into consideration the individual needs of the employee.
- 174. A manager may approve a part-time employee accessing flextime, subject to operational requirements.
- 175. Subject to clause 162, a full-time employee is required to work an average of 37 hours and 30 minutes per week with an average of 7 hours 30 minutes per working day. Part-time employees are required to work those hours agreed to with the Commissioner under clause 192.
- 176. Flexibility in relation to hours worked on any particular day is available within the standard bandwidth in accordance with clause 167 or a varied bandwidth in accordance with clause 170.

177. Flextime credits will accrue on an hour for hour basis when work is performed within the standard bandwidth, except where clause 181 applies.
178. A full-time employee at an APS 1–6 classification or a training classification may not carry over in excess of 37 hours and 30 minutes flextime credit, pro-rata for a part-time employee, at the end of any settlement period unless:
- a) they have brought the matter to the attention of their manager prior to the end of the settlement period; and
 - b) the manager and the employee have put in place a strategy to reduce the credit below 37 hours and 30 minutes, pro-rata for a part-time employee, prior to the end of the next settlement period.
179. An employee at an APS 1–6 classification or a training classification may not carry over in excess of 15 hours flextime debit, pro-rata for a part-time employee, at the end of any settlement period.

Direction to work outside the standard bandwidth

180. Where an APS 1-6 classification or training classification employee is directed to work more than 10 hours on any one day within the standard bandwidth, any hours worked in excess of 10 hours will accrue as flextime at a rate of one and a half hours for each hour worked Monday to Saturday, or at a rate of two hours for each hour worked Sundays and Public Holidays.
181. Where the Commissioner directs an employee, excluding casual employees, at an APS 1–6 classification or a training classification to work outside the standard bandwidth, flextime credit will accrue at the following rates with a minimum of three hours to be accrued for any time worked:
- a) **Monday to Friday:** time worked between 6.00am – 7.00am or 7.00pm - 10.00pm will accrue flextime at one and a half hours for each hour worked. Time worked before 6.00am or after 10.00pm will accrue flextime at two hours for each hour worked.
 - b) **Saturday:** time worked between 8.00am – 6.00pm will accrue flextime at one and a half hours for each hour worked. Time worked before 8.00am or after 6.00pm will accrue flextime at two hours for each hour worked.
 - c) **Sundays and Public Holidays:** time worked will accrue flextime at two hours for each hour worked.
182. Where an APS 1–6 classification casual employee is directed to work outside the standard bandwidth, the casual employee will not receive the casual loading defined in clause 47. The casual employee will be paid for time worked outside the standard bandwidth at the following rates:
- a) **Monday to Friday:** time worked between 6.00am – 7.00am or 7.00pm - 10.00pm will be paid at 150%. Time worked before 6.00am or after 10.00pm will be paid at 200%.
 - b) **Saturday:** time worked between 8.00am – 6.00pm will be paid at 150%. Time worked before 8.00am or after 6.00pm will be paid at 200%.

- c) **Sundays and Public Holidays:** time worked will be paid at 200%.
183. Where an employee is directed to work outside the standard bandwidth the employee will be entitled to an eight-hour break plus reasonable travelling time following the end of the period of work before commencing work again.
184. Where the break referred to in clause 183 is not possible due to operational requirements the employee will accrue flextime at two hours for each hour worked, until an eight-hour break can be granted.
185. Clauses 180 to 184 do not apply where an employee is required to undertake official travel.
186. Where the bandwidth has been varied, in accordance with clause 170, the application of clause 181 will be:
- a) **Monday to Friday:** the rate of flextime accrual for work done one hour before the varied bandwidth, and three hours after, will be one and a half hours. Any other work done outside the bandwidth will accrue flextime at two hours for each hour worked.
 - b) where the varied bandwidth includes a weekend, any overtime on that day will be paid in accordance with clause 186(a).
 - c) where an employee is directed to work on a weekend day not included in their varied bandwidth, any overtime on that day will be paid in accordance with clause 181(b) or 181(c).

Working arrangements for executive level employees

187. Arrangements about when work is performed for executive level employees will be determined by the Commissioner. Where possible, the Commissioner will take into account the individual needs of the employee.
188. There is an expectation that executive level employees, because of their senior work roles and responsibilities, will be required to undertake reasonable additional hours of work.
189. Where an executive level employee has consistently worked excessive hours a manager may, having regard to clauses 187 to 188, grant reasonable time off in recognition of additional hours worked at a time mutually agreed. Such absences do not need to be covered by any form of leave.

Working away from the office

190. The Commissioner may approve an employee to work away from the office, subject to operational requirements.

Regular part-time employment

191. The Commissioner may approve an employee's request for part-time work, subject to operational requirements. Part-time work may include job sharing arrangements.
192. A part-time employee is one who works a regular number of hours and whose hours of work are less than 150 hours over the four week settlement period. The Commissioner will agree with the employee the number of days and number of hours to be worked, under the four-week settlement period. However, a minimum of three hours are to be worked consecutively on any day.
193. The Commissioner may initiate the introduction or extension of part-time employment. Employees will not be required to convert from full-time to part-time hours or from part-time to full-time hours, without their agreement.
194. The Commissioner and the employee may agree to vary the part-time work agreement, including a reversion to full time hours, before the end of any period of an agreed part-time working arrangement.
195. Unless agreed otherwise between the employee and the Commissioner in writing, or otherwise described in the Agreement, remuneration and other benefits, excluding expense-related allowances or reimbursements, for part-time employees will be calculated on a pro-rata basis.

Family care costs

196. The Commissioner may authorise reimbursement of reasonable expenses arising from additional family care arrangements made necessary where an employee is:
- a) required to travel away from their normal work location for business purposes;
 - b) directed to work additional hours or to attend a conference or learning and development course outside the standard bandwidth;
 - c) directed to work outside the employee's regular agreed hours of work; or
 - d) directed to return to duty.

Flexible working arrangements

197. An employee may request flexible working arrangements in accordance with section 65 of the Fair Work Act.

Health promotion

198. The Commission will provide employees with access to health and wellbeing initiatives, this may include influenza vaccinations.

Part J Performance and Development

Performance management framework

199. Employees must participate in the Commission's performance management framework. The annual performance management cycle runs from 1 July to 30 June each year. Further information can be found in the Performance Management Policy.

Eligibility for performance based salary advancement

200. On 1 July an eligible ongoing employee who is below the maximum pay point of their substantive classification will be eligible for progression to the next highest pay point within their substantive classification, subject to clauses 201 to 206.
201. Eligibility for performance based salary advancement is limited to ongoing employees who are present in the workplace and subject to the framework for a minimum of six months during the annual performance management cycle. Employees must achieve satisfactory performance at the end of the annual performance management cycle to be advanced.
202. Non-ongoing employees are not eligible for salary advancement under these provisions.
203. Where an employee is promoted within the Commission and has previously been temporarily assigned duties at this classification, and that period of temporary assignment immediately precedes the date of effect of the promotion, the period of temporary assignment will count towards the qualifying period for salary advancement.

Performance Improvement Plan

204. An employee who is not performing satisfactorily will be placed on a Performance Improvement Plan.
205. An employee who is on a Performance Improvement Plan at the end of the annual performance management cycle will not be eligible for a performance based salary advancement on 1 July.
206. Where an employee has improved their performance, salary advancement to the next available pay point will take effect from the date they are assessed as achieving satisfactory performance, subject to clauses 200 to 203.

Skills recognition and development

207. The Commissioner may approve funding of professional memberships and development needs where this is agreed between the Commissioner and the employee.

Study encouragement scheme

208. The Commission may provide financial or other assistance to an employee to undertake formal courses of study at tertiary and higher education institutions and other vocational education courses, where the study is agreed to by the Commissioner.
209. Further information can be found in the Employee Development Policy.

Employee initiated separation from the APS

210. An employee will, where practicable, give a minimum of two weeks' notice of their intention to resign or retire from the APS, except where a lesser period is agreed with the Commissioner.

Excess employees**Coverage**

211. The following provisions will apply to all employees of the Commission with the exception of:
- a) ongoing employees who are on probation; and
 - b) non-ongoing employees.

Definition of excess employee

212. An employee is an excess employee if:
- a) the employee is included in a class of employees employed in the Commission which comprises a greater number of employees than is necessary for the efficient and economical working of the Commission; or
 - b) the services of the employee cannot be used effectively because of technological or other changes in the work methods of the Commission or changes in the nature, extent or organisation of the functions of the Commission; or
 - c) the duties usually performed by the employee are to be performed at a different locality, the employee is not willing to perform duties at the locality and the Commissioner has determined that these provisions will apply to that employee.

Consultation with potentially excess employees

213. When the Commissioner is aware that an employee is likely to become excess, the Commissioner will advise the employee.
214. The Commissioner will hold discussions with the employee to advise them of the reasons they may become excess and to consider:
- a) measures that could be taken to resolve the situation, including redeployment opportunities for the employee at or below level including through any APS-wide deployment mechanism which might exist at the time;
 - b) referral to a service provider approved by the Commissioner to provide career planning and other appropriate assistance; and
 - c) whether voluntary retrenchment might be appropriate.
215. Where the employee nominates a representative, the Commissioner will hold the discussions with the employee's representative.

216. The Commissioner may, prior to the conclusion of these discussions, invite an employee who is not a potentially excess employee to express interest in voluntary retrenchment, where the retrenchment of that employee would permit the redeployment of an employee who is potentially excess.

Declaring an employee excess

217. At least four weeks after advising the employee in accordance with clause 213 that they are likely to become excess, the Commissioner may advise the employee in writing that they are an excess employee. The employee and the Commissioner may agree to a shorter period.

Voluntary retrenchment

218. Where an employee is advised that they are an excess employee in accordance with clause 217, the Commissioner may invite the excess employee to accept voluntary retrenchment.
219. Where the Commissioner invites an excess employee to accept voluntary retrenchment, the employee will have four weeks in which to accept the offer.
220. Where the offer is accepted the Commissioner will consider whether to proceed with approval of the voluntary retrenchment, but will not give notice of termination under section 29(3)(a) of the Public Service Act before the end of the four week period, without consulting the employee.
221. As soon as possible within the four weeks referred to in clause 219, the Commissioner will give the excess employee information on:
- a) the amount of severance benefit, pay in lieu of notice and paid leave credits;
 - b) how to ascertain the amount of accumulated superannuation contributions;
 - c) options open to the employee concerning superannuation; and
 - d) any taxation rules applying to the various payments,
- which would be payable on voluntary retrenchment.
222. An excess employee invited to accept voluntary retrenchment will be provided with assistance up to a total of \$900 for financial advice and career counselling.
223. Only one offer of voluntary retrenchment will be made to an excess employee.

Period of notice

224. Where the excess employee accepts voluntary retrenchment, the Commissioner may retrench the excess employee by giving the required notice of termination under section 29(3)(a) of the Public Service Act. The period of notice will be four weeks (or five weeks for an employee over 45 and with at least five years of continuous service).
225. Where an employee's employment is terminated at the beginning of, or within, the notice period, the employee will receive payment in lieu of notice as set out in the Fair Work Act for the unexpired portion of the notice period.

Severance benefit

226. An employee whose employment is terminated under section 29(3)(a) of the Public Service Act following their agreement to be voluntarily retrenched is entitled to be paid a severance benefit of an amount equal to two weeks' salary for each completed year of continuous service, plus a pro-rata payment for completed months of service since the last completed year of service, subject to any minimum amount the employee is entitled to under the NES.
227. The minimum sum payable will be four weeks' salary and the maximum will be 48 weeks' salary.
228. The redundancy pay will be calculated on a pro-rata basis for any period where the employee has worked part-time hours during his or her period of service and the employee has less than 24 years full-time service, subject to any minimum amount the employee is entitled to under the NES.
229. Service for severance benefit purposes means:
- a) service in the Commission;
 - b) Government service as defined in section 10 of the Long Service Leave Act;
 - c) service with a Commonwealth body (other than service with a Joint Commonwealth-State body corporate) in which the Commonwealth has a controlling interest which is recognised for long service leave purposes;
 - d) service with the ADF;
 - e) APS service immediately preceding deemed resignation under repealed section 49 of the Public Service Act, if the service has not previously been recognised for severance pay purposes; and
 - f) service in another organisation where:
 - i. an employee moved from the APS to that organisation with a transfer of function; or
 - ii. an employee engaged by that organisation on work within a function is engaged in the APS as a result of the transfer of that function to the APS; and
 - iii. such service is recognised for long service leave purposes.

Rate of Payment

230. For the purpose of calculating any payment under clause 226, salary will include:
- a) the employee's salary at their substantive work value level; or
 - b) the salary of the higher work value level, where the employee has been working at the higher level for a continuous period of at least 12 months immediately preceding the date on which the employee is given notice of termination; and

- c) other allowances in the nature of salary which are paid during periods of annual leave and on a regular basis, excluding allowances which are a reimbursement for expenses incurred, or a payment for disabilities associated with the performance of duty.

Accelerated separation option and additional payment

- 231. Where the Commissioner invites an excess employee to accept voluntary retrenchment, the Commissioner may also invite the excess employee to accept an accelerated separation option. This option provides, in addition to the severance benefit, a payment of a maximum of four weeks' salary in lieu of the consideration period referred to in clause 219 where the excess employee agrees to termination of employment and the employment is so terminated within 14 days of receiving an offer of voluntary retrenchment. Any payment to which the employee is entitled will be equal to the balance of the four week period referred to in clause 219.

Retention period

- 232. An excess employee will be entitled to the following retention period:
 - a) 13 months where they have 20 or more years of service or are over 45 years of age; or
 - b) seven months.
- 233. If an employee is entitled to a redundancy payment under the NES, the retention period at clause 232 will be reduced by the employee's redundancy pay entitlement under the NES on termination, calculated as at the expiration of the retention period (as adjusted by this clause).
- 234. The retention period will commence on the day the employee is advised in writing by the Commissioner, in accordance with clause 217, that they are an excess employee.
- 235. The retention period will be extended by any periods of personal/carer's leave taken for the purposes of a personal illness or injury during the retention period.
- 236. Where:
 - a) an excess employee has been receiving redeployment assistance from a service provider for two months; and
 - b) the service provider advises that there is no reasonable prospect of redeployment in the APS; and
 - c) the Commissioner is satisfied that there is insufficient productive work available for the employee within the Commission during the remainder of their retention period,

the Commissioner may, in consultation with the employee, terminate the employment of the employee under section 29 of the Public Service Act. Upon termination, the employee will be paid a lump sum comprising the balance of the retention period (as shortened for the NES under clause 233) and this payment will be taken to include the payment in lieu of notice of termination of employment, plus the employee's NES entitlement to redundancy pay.

Redeployment

- 237. Where an excess employee does not accept an offer of voluntary retrenchment or the accelerated separation option within four weeks of the offer being made, the redeployment arrangements of this Agreement will apply.
- 238. An excess employee will have access to the APS-wide redeployment mechanisms.
- 239. An excess employee will be entitled to a period of retention in which they will have access to the services of a provider approved by the Commissioner to the value of \$2600 in order to assist them to be redeployed. The employee is also entitled to funding for financial advice to the value of \$900 less any amount already paid in accordance with clause 222.
- 240. The Commissioner will take all reasonable steps, consistent with the interests of the efficient administration of the Commission, to assign new duties to an excess employee at their substantive classification within the Commission.
- 241. The Commissioner, after taking reasonable steps to find alternative employment in the Commission at the excess employees substantive classification, may, with four weeks' notice, allocate a lower classification to the employee, having determined that duties appropriate to that classification are to be performed by the employee. The employee will receive income maintenance to maintain their salary at the previous higher classification for the balance of the retention period.

Assistance

- 242. An excess employee, who is on a retention period, will be given assistance in meeting reasonable travel and incidental expenses incurred in seeking alternative employment (where such expenses are not met by the prospective employer) and will be given reasonable time off work to attend job interviews.
- 243. An excess employee required to move their household to a new locality as a result of an assignment to new duties at the same or lower classification may be entitled to reasonable expenses in accordance with Part F of this Agreement.

Involuntary retrenchment

- 244. Subject to clause 241 the Commissioner under section 29 of the Public Service Act may terminate the employment of an excess employee who has not agreed to voluntary retrenchment and has not been permanently redeployed to an ongoing position.
- 245. The Commissioner will not terminate the employment of an excess employee if the excess employee has not been invited to accept an offer of voluntary retrenchment or has elected to accept an offer of voluntary retrenchment but the Commissioner has refused to approve it.

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

Major change

247. For a major change referred to in clause 246(a):
- a) the Commission must notify the relevant employees of the decision to introduce the major change; and
 - b) clauses 248 to 254 apply.
248. The relevant employees may appoint a representative for the purposes of the procedures in this term.
249. If:
- a) a relevant employee appoints, or relevant employees appoint, a representative for the purposes of consultation; and
 - b) the employee or employees advise the employer of the identity of the representative, the Commission must recognise the representative.
250. As soon as practicable after making its decision, the Commission must:
- a) discuss with the relevant employees:
 - i. the introduction of the change; and
 - ii. the effect the change is likely to have on the employees; and
 - iii. measures the Commission is taking to avert or mitigate the adverse effect of the change on the employees; and
 - b) for the purposes of the discussion provide, in writing, to the relevant employees:
 - i. all relevant information about the change including the nature of the change proposed; and
 - ii. information about the expected effects of the change on the employees; and
 - iii. any other matters likely to affect the employees.

251. However, the Commission is not required to disclose confidential or commercially sensitive information to the relevant employees.
252. The Commission must give prompt and genuine consideration to matters raised about the major change by the relevant employees.
253. If a term in this agreement provides for a major change to production, program, organisation, structure or technology in relation to the enterprise of the Commission, the requirements set out in clause 247(a) and clauses 248 and 250 are taken not to apply.
254. In this term, a major change is likely to have a significant effect on employees if it results in:
- a) the termination of the employment of employees; or
 - b) major change to the composition, operation or size of the Commission's workforce or to the skills required of employees; or
 - c) the elimination or diminution of job opportunities (including opportunities for promotion or tenure); or
 - d) the alteration of hours of work; or
 - e) the need to retrain employees; or
 - f) the need to relocate employees to another workplace; or
 - g) the restructuring of jobs.

Change to regular roster or ordinary hours of work

255. For a change referred to in clause 246(b):
- a) the Commission must notify the relevant employees of the proposed change; and
 - b) clauses 256 to 260 apply.
256. The relevant employees may appoint a representative for the purposes of the procedures in this term.
257. If:
- a) a relevant employee appoints, or relevant employees appoint, a representative for the purposes of consultation; and
 - b) the employee or employees advise the employer of the identity of the representative;
- the employer must recognise the representative.
258. As soon as practicable after proposing to introduce the change, the Commission must:
- a) discuss with the relevant employees the introduction of the change; and

- b) for the purposes of the discussion, provide to the relevant employees:
 - i. all relevant information about the change, including the nature of the change; and
 - ii. information about what the employer reasonably believes will be the effects of the change on the employees; and
 - iii. information about any other matters that the Commission reasonably believes are likely to affect the employees; and
- c) invite the relevant employees to give their views about the impact of the change (including any impact in relation to their family or caring responsibilities).

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

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

261. In this term: "relevant employees" means the employees who may be affected by a change referred to in clause 246.

Workplace Relations/Health and Safety Committee

262. A Workplace Relations/Health and Safety Committee will be established to facilitate communication and consultation with employees, and will monitor the implementation of this Agreement.

Appendix 1 Commission Salary Scales

Classification	Current rates	Commencement	12 Months	24 Months
EL 2.7	\$140,590	\$143,402	\$146,270	\$149,195
EL 2.6	\$139,250	\$142,035	\$144,876	\$147,774
EL 2.5	\$137,330	\$140,077	\$142,879	\$145,737
EL 2.4	\$134,683	\$137,377	\$140,125	\$142,928
EL 2.3	\$132,179	\$134,823	\$137,519	\$140,269
EL 2.2	\$127,763	\$130,318	\$132,924	\$135,582
EL 2.1	\$125,057	\$127,558	\$130,109	\$132,711
EL 1.7	\$114,308	\$116,594	\$118,926	\$121,305
EL 1.6	\$113,208	\$115,472	\$117,781	\$120,137
EL 1.5	\$110,447	\$112,656	\$114,909	\$117,207
EL 1.4	\$108,853	\$111,030	\$113,251	\$115,516
EL 1.3	\$105,136	\$107,239	\$109,384	\$111,572
EL 1.2	\$102,164	\$104,207	\$106,291	\$108,417
EL 1.1	\$99,734	\$101,729	\$103,764	\$105,839
APS 6.3	\$88,942	\$90,721	\$92,535	\$94,386
APS 6.2	\$85,301	\$87,007	\$88,747	\$90,522
APS 6.1	\$81,925	\$83,564	\$85,235	\$86,940
APS 5.3	\$78,694	\$80,268	\$81,873	\$83,510
APS 5.2	\$75,326	\$76,833	\$78,370	\$79,937
APS 5.1	\$71,959	\$73,398	\$74,866	\$76,363
APS 4.3	\$69,029	\$70,410	\$71,818	\$73,254
APS 4.2	\$65,106	\$66,408	\$67,736	\$69,091
APS 4.1	\$64,131	\$65,414	\$66,722	\$68,056
APS 3.2	\$60,044	\$61,245	\$62,470	\$63,719
APS 3.1	\$58,231	\$59,396	\$60,584	\$61,796
APS 2.3	\$55,755	\$56,870	\$58,007	\$59,167
APS 2.2	\$52,045	\$53,086	\$54,148	\$55,231
APS 2.1	\$49,983	\$50,983	\$52,003	\$53,043
APS 1.2	\$45,258	\$46,163	\$47,086	\$48,028
APS 1.1	\$43,750	\$44,625	\$45,518	\$46,428

Training Classifications

Classification	Current rates	Commencement	12 Months	24 Months
Graduate APS	\$58,231	\$59,396	\$60,584	\$61,796
Trainee APS	\$43,750	\$44,625	\$45,518	\$46,428
Cadet APS	\$29,312	\$29,898	\$30,496	\$31,106

Appendix 2 Supported Wage

1. Employees who are affected by a disability are eligible for a supported wage.
2. **Eligibility.** Eligible employees are those who are unable to perform the range of duties to the competence level required within the classification for which the employee is engaged, because of the effects of a disability on their productive capacity and who meet the impairment criteria for receipt of a disability support pension.
3. This provision does not apply to any existing employee who has a claim against the Commission which is subject to the provisions of workers compensation legislation or any provision of this Agreement relating to the rehabilitation of employees who are injured in the course of their employment.
4. **Supported wage rates.** Employees to whom this provision applies shall be paid the applicable percentage of the relevant base salary as outlined in this Appendix, according to Table 1, provided that the minimum amount payable is not less than the minimum weekly amount as prescribed by the Fair Work Commission from time to time.

Table 1: Supported wage rates

Assessed capability	% of base salary available under this Agreement
10%	10%
20%	20%
30%	30%
40%	40%
50%	50%
60%	60%
70%	70%
80%	80%
90%	90%

5. Where an employee's assessed capacity is 10 per cent the employee must receive a high degree of assistance and support.
6. **Assessment of capacity.** For the purposes of establishing the percentage of the relevant base salary, the productive capacity of the employee will be assessed by an approved assessor, having consulted the

employer and the employee, and if the employee so desires, a union which the employee is eligible to join.

7. Assessment made under this schedule must be documented in a Supported Wage System (SWS) wage assessment agreement, and retained by the employer as a time and wages record as required by the relevant legislation.
8. **Lodgement of SWS wage assessment agreement.** All SWS wage assessment agreements under the conditions of this schedule, including the appropriate percentage of the relevant minimum wage to be paid to the employee, must be lodged by the Commission with the Fair Work Commission.
9. All SWS wage assessment agreements must be agreed and signed by the employee and employer parties to the assessment. Where a union which has an interest in the award is not a party to the assessment, the assessment will be referred by the Fair Work Commission to the union by certified mail and the agreement will take effect unless an objection is notified to the Fair Work Commission within 10 working days.
10. **Review of assessment.** The assessment of the applicable percentage should be subject to annual review or more frequent review on the basis of a reasonable request for such a review. The process of review must be in accordance with the procedures for assessing capacity under the SWS.
11. **Other terms and conditions of employment.** Where an assessment has been made, the applicable percentage will apply to the relevant wage rate only. Employees covered by a SWS wage assessment agreement will be entitled to the same terms and conditions of employment as all other employees covered by this Agreement paid on a pro-rata basis.
12. **Workplace adjustment.** An employer wishing to employ a person under the provisions of this schedule must take reasonable steps to make changes in the workplace to enhance the employee's capacity to do the job. Changes may involve re-design of job duties, working time arrangements and work organisation in consultation with other workers in the area.
13. **Trial period.** In order for an adequate assessment of the employee's capacity to be made, the Commission may employ a person covered by the SWS provisions for a trial period not exceeding 12 weeks, except that in some cases additional work adjustment time (not exceeding four weeks) may be needed.
14. During that trial period the assessment of capacity will be undertaken and the percentage of the relevant minimum wage for a continuing employment relationship will be determined.
15. The minimum amount payable to the employee during the trial period must be no less than the minimum weekly amount as prescribed by the Fair Work Commission from time to time.
16. Work trials should include induction or training as appropriate to the job being trialled.
17. Where the Commission and the employee wish to establish a continuing employment relationship following the completion of the trial period, a further contract of employment will be entered into based on the outcome of assessment under paragraphs 6 and 7 of this Appendix.

Appendix 3 Interpretations and Definitions

“Agreement” means the Australian Public Service Commission Enterprise Agreement 2018-21.

“APS” means the Australian Public Service.

“APS employee” is someone engaged under section 22(2) of the Public Service Act.

“Broadband/s” refers to the combination of two or more classifications in a single unit called a broadband in accordance with the Classification Rules. A broadband encompasses the full range of work value of the classifications contained within it.

“Cadet APS” means an employee allocated the classification of Cadet APS in accordance with the Classification Rules. Cadets undertake a Cadetship with the Commission involving a combination of full time tertiary study and work placement throughout the duration of their studies.

“Casual employee/s” means a person engaged under section 22(2)(c) of the Public Service Act for duties that are irregular or intermittent.

“Classification Rules” means the *Public Service Classification Rules 2000* as amended from time to time.

“Classification/s” means an approved classification under the Classification Rules.

“Commission” means the Australian Public Service Commission.

“Commissioner” means the Australian Public Service Commissioner.

“Employee/s” means an employee of the Commission covered by this Agreement (whether full-time or part-time) and includes employees who have been assigned duties at the Commission under section 26 of the Public Service Act. Unless specified, this does not include a casual employee.

“Executive level employee” means employees at the Executive Level 1 and 2 classification in accordance with the Classification Rules.

“Excess employee” means an employee declared to be excess in accordance with Part K of this Agreement.

“Fair Work Act” means the *Fair Work Act 2009* as amended from time to time.

“Family” means a person who:

- a) is related by blood or by marriage to the employee; or
- b) is a de facto spouse, former spouse or former de facto spouse of the employee without discrimination as to sexual preference; or
- c) the Commissioner is satisfied they have a strong affinity with the employee; or

d) is a child, adopted child or a foster child of the employee.

“Flextime” is a system of flexible working arrangements which enables an employee and the Commissioner to vary working hours, patterns and arrangements (subject to operational requirements) to average working hours of 37 hours and 30 minutes, or regular agreed part-time hours, per week for the settlement period.

“Foster care” means an arrangement whereby an employee, as primary carer, assumes long term responsibility for a child:

- a) arising from the placement of the child by a ‘fostering’ arrangement or Parentage Order by a person / organisation with statutory responsibility for the placement of the child;
- b) where the child is, or will be, under 16 years of age as at the day of placement, or the expected day of placement, of the child;
- c) where the placement of the child:
 - i. is for a period longer than six months; and
 - ii. in circumstances where it is not expected that the child will return to their family; and
- d) the child is not (otherwise than because of the fostering) a child of the employee or the employee’s spouse or de facto partner.

The ‘placement’ of a child, means the earlier of the following days:

- a) the day on which the employee first takes long term care of the child; or
- b) the day on which the employee starts any travel that is reasonably necessary to take custody of the child.

“Graduate APS” means an employee allocated the classification of Graduate APS in accordance with the Classification Rules. Graduates undertake a structured program of training and work placements.

“Long Service Leave Act” means the *Long Service Leave (Commonwealth Employees) Act 1976* as amended from time to time.

“Manager” means the person to whom an employee generally reports to on a day-to-day basis for work related matters, and may include a person referred to as a supervisor.

“Maternity Leave Act” means the *Maternity Leave (Commonwealth Employees) Act 1973* as amended from time to time.

“National Employment Standards (NES)” means those minimum terms and conditions that apply to all national system employees, as outlined in Part 2-2 of the Fair Work Act.

“Non-ongoing employee” means an employee who has been engaged under section 22(2)(b) of the Public Service Act for either a specified term or for the duration of a specified task.

“Official travel” means travel that an employee is requested to undertake on behalf of the Commission. Official travel requires formal approval by the Commissioner via a movement requisition.

“Parliamentary Services Act” means the *Parliamentary Service Act 1999* as amended from time to time.

“Public Service Act” means the *Public Service Act 1999* as amended from time to time.

“Settlement period” means a four week period beginning on a pay day Thursday for the purposes of determining flextime debit or credit carryover.

“Trainee APS (Administrative)” means an employee allocated the classification of Trainee APS (Administrative) in accordance with the Classification Rules . Trainee APS (Administrative) employees undertake a training program for a period of 12 months which combines time at work with training, and can be full-time, part-time or school-based.

“Training classification” means the classifications listed in Schedule 2 of the Classification Rules.

“Working day” is Monday to Friday and excludes public holidays and the Christmas closedown.



Attendance and leave policy

Purpose

1. The purpose of this policy is to outline the manner in which attendance and leave provisions set out in the Australian Public Service Commission Enterprise Agreement 2018-21 (enterprise agreement), *Fair Work Act 2009*, *Maternity Leave (Commonwealth Employees) Act 1973*, and *Long Service Leave (Commonwealth Employees) Act 1976* are to be applied.
2. This policy defines the principles to be adopted to minimise the impact and cost of absenteeism.
3. This policy should be read in conjunction with the enterprise agreement.
4. The policy does not apply to leave associated with an approved workers' compensation claim which is covered in the [Early Intervention and Rehabilitation Policy](#).
5. Delegations for approval of leave are established under the enterprise agreement and other relevant legislation, and prescribed in the Commission's [HR Delegations](#).

Principles

6. The Australian Public Service Commission (the Commission) is committed to a culture of excellence and innovation and aims to provide a safe, healthy and productive workplace. This includes ensuring that employees have adequate opportunity to achieve a good level of work-life balance.
7. This policy also recognises our diverse workforce and aims to balance organisational requirements with personal needs and provide employees flexible leave arrangements where appropriate.

Managing attendance and leave

Responsibilities

8. Attendance and leave is a shared responsibility between managers and employees. Within this policy any references to manager includes anyone in an employee's management line from immediate supervisors to their executive, as appropriate.
9. A cooperative approach enables the Commission to support employees through periods of absence.
10. Managers are responsible for identifying patterns or trends of absence which cause concern or impact the Commission's ability to meet operational requirements.
11. All attendance or absence issues should be discussed as soon as they arise and as part of the Commission's performance management framework - [Taking Time to Talk](#).
12. Managers should arrange to make regular contact with an employee who is absent for an extended period.
13. Where practical, unscheduled absences should be discussed no later than one day after the employee returns to work. Where a period of absence causes concern, discussions may, depending on the circumstances, be recorded in a diary or similar record.
14. Managers should generally discuss the reasons for unscheduled absence to identify any workplace issues that may have contributed.

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[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Leave

Applying for leave

53. All leave applications are to be entered through *HUB* in a timely manner. Where possible, this should occur prior to taking the leave. Employees must provide their manager reasonable notice when requesting extended planned leave.
54. Leave must only be used for the purpose for which it is intended. Artificially constructing leave is not acceptable, for example using personal/carer's leave prior to or after long weekends to purposely extend your absence from work.

Approval of leave

55. Paid leave will generally be approved if the employee meets eligibility requirements and the impact on organisational needs are minimised.
56. When considering an application for planned leave, the manager will take into account:
 - a. the employee's preferences or need to take the leave;
 - b. the capacity of the workplace or team to meet its internal and/or external service delivery requirements;
 - c. the balancing of workloads on particular days or parts of days;
 - d. leave already approved or requested by other employees; and
 - e. any other leave planned or taken by the employee.
57. Discretionary leave may not be approved where there is an adverse effect on the ability of the employee or work area to meet operational requirements.
58. An approval for leave does not confer an entitlement to any particular form of leave for the period. The granting of leave will be dependent on available leave balance and subject to the provisions of the enterprise agreement and policies.

Leave substitution

59. Where an employee is eligible to substitute their annual or long service leave for another form of leave, for example personal/carer's leave, this can be processed through *HUB* by amending and/or cancelling existing applications and having these approved by their manager.
60. If this is not possible, employees should email s 47E(d) with the details of the leave to be substituted and their manager's approval.

[REDACTED]

[REDACTED]

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Long service leave

91. The entitlement to long service leave (LSL) is provided in accordance with the *Long Service Leave (Commonwealth Employees) Act 1976*.
92. LSL will only be granted for periods of at least 7 calendar days at full pay or 14 calendar days at half pay. Minimum periods are inclusive of any weekends and/or public holidays that fall within the leave period.
93. A period of LSL cannot be broken by other forms of leave, except as otherwise provided by legislation, and should not be granted in patterns which would exclude weekends or public holidays.
94. Variations in the number of calendar days in any month are disregarded for LSL purposes. One month is equal to 30 calendar days for all purposes.
95. Managers may approve other types of leave during a period of LSL if satisfactory evidence is provided. LSL will be re-credited to the extent of any other leave granted.

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Further Support

124. Leave balances are available through HUB.

125. HR can provide assistance to both employees and managers when making leave considerations.

126. Further information on leave provisions can be found in the Australian Public Service Commission's current enterprise agreement, the *Maternity Leave (Commonwealth Employees) Act 1973*, the *Long Service Leave (Commonwealth Employees) Act 1976* and the *Fair Work Act 2009*.

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Australian Government

**Australian Public Service
Commission**

Long Service Leave

Participant Workbook

Prepared by HR Operations Training Program

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This training resource is current as at March 2013.

Comments and suggestions for continuous improvement of this program are encouraged and should be submitted via email to HRTraining@apsc.gov.au.

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1. Course overview

1.1 Purpose

This course will provide an in-depth view of Long Service Leave (LSL) processes using applicable legislation, employment instruments, policies and advice.

1.2 Pre-requisites

Prior to attending this course, participants are required to have completed the HR Operations Training Program course, 'Prior Service' or have previous relevant experience.

1.3 Target audience

This course is intended for human resources practitioners who will be processing requests for LSL, and related payments, or advising employees on LSL entitlements.

1.4 Duration

This course is scheduled to be delivered over one day, typically from 9 am - 5 pm.

1.5 Learning objectives

At the end of the course, participants will be able to:

- Determine employee LSL accrual dates;
- Calculate LSL credits for part-time and casual (irregular or intermittent) service;
- Calculate payment in lieu of LSL (eg. for purposes such as redundancy, retirement and dismissal pay);
- Process employee LSL applications; and
- Provide advice to employees about their long service leave entitlements and the Long Service Leave Act.

Note: the course does not include a detailed coverage of the tax calculation for payments in lieu. This is covered in the Final Entitlements course.

1.6 Key references

The following legislation and references relate to long service leave and are referred to in this course.

- *Long Service Leave (Commonwealth Employees) Act 1976*
- *Long Service Leave (Commonwealth Employees) Regulations*
- *Public Service Act 1999*
- *Financial Management and Accountability Order 1997*
- Your Agency Enterprise Agreement
- DEWR Advice 1998/22
- DEWR Advice 1999/2

The information in this guide does not replace primary reference material.

IT IS IMPORTANT TO KNOW THE PROVISIONS THAT APPLY IN YOUR AGENCY

2. Revision

The legal authority for recognition of prior service for the purposes of LSL is the *Long Service Leave (Commonwealth Employees) Act 1976* (LSL Act) and the *Long Service Leave (Commonwealth Employees) Regulations 1957* (LSL Regs).

Note: Section 10 of the LSL Act defines Government Service and Section 11 of the LSL Act defines prior service employment. Prescribed authorities (for prior service) recognisable for LSL purposes are listed in Schedules 1A, 1 and 2 of the LSL Regs.

2.1 Key elements

The key elements for determining whether prior service is to be recognised for LSL purposes are:

- Government service;
- Eligible prior service; and
- Continuity of service.

2.2 Government service

The meaning of Government service is defined by section 10 of the LSL Act. It includes employment in the Commonwealth under legislation or under a contract of service or apprenticeship.

The Act does not distinguish between ongoing and non-ongoing/casual employment. Full-time and part-time employment is only defined for the purposes of calculating credits.

Therefore, government service is subject to the provisions of the LSL Act regardless of employment type/status or hours of work. Note: casual employment is, for the purpose of calculations, considered part-time employment.

A person who is a public authority of the Commonwealth or is a member or deputy member of a public authority of the Commonwealth is also deemed to be employed in Government service (provided remuneration is **not** by way of fees, allowances or commission).

The Commissioner, a Deputy Commissioner of the Australian Federal Police (AFP) or an AFP employee is taken to be employed in Government Service.

APS agencies and public authorities bound by the LSL Act are required to recognise prior service with other agencies and authorities also bound by the LSL Act where the service is continuous.

Please note that section 10 of the LSL Act also excludes some employment that you might think is Government service, for example, Australian Defence Force, Judges, State / Territory Public Service or any person remunerated for that employment by way of fees, allowances or commission only. See further information about this under the section 'eligible prior service'.

2.3 Eligible prior service

Under sub-section 11(2) of the LSL Act, prior service is eligible for recognition where an employee was employed continuously in:

- any service of a State or an authority of a State;
- the public service or an authority of a Territory, including Papua New Guinea before independence;
- the teaching service of the ACT or the Northern Territory;
- other relevant service, defined as:
 - o Australian Defence Force service;
 - o employment under the Reserve Bank Act 1959 or the Commonwealth Banks Act 1959;
or
 - o service as a locally engaged employee (refer to sub-section 11(5) of the LSL Act);
and/or
- other organisations prescribed under sub-section 7(2) of the LSL regulations.

Employees in these organisations may be subject to their own LSL legislation (or scheme) and, on commencement with a LSL Act agency, LSL credits are not automatically carried across. Instead, any eligible prior service is treated as though it is the same as Commonwealth service and the LSL credit is calculated accordingly (that is at the same rate as LSL Act entitlements, not the rate that was accrued under the previous scheme).

Under sub-section 11(4) of the LSL Act, service in an honorary capacity, or service remunerated by way of fees, allowances or commissions only is not recognised as prior service.

2.4 Continuity of service

Section 12 of the LSL Act defines continuous service to mean period/s of qualifying service that does not have any break in employment that **exceeds 12 months**. The period of any break, itself, is not considered as service. There is no discretion under the Act to extend the 12 month period.

2.5 Breaks in service and accrual dates

The following are considered breaks in service and have the effect of deferring the LSL accrual date:

- between cessation and commencement of periods of government service (section 10 LSL Act); and
- between cessation and commencement of periods of eligible employment (section 11 LSL Act).

Where an employee has broken periods of eligible service, service counts only if the break is ***no more than 12 months*** see section 12 of the LSL Act. Note: The maximum 12 month period applies even though the last day on which an employee could have commenced, or recommenced, employment was a weekend or a public holiday. ***A break of exactly 12 months does not break continuity.*** The period of any break is not recognised as service itself.

Example 1	
7.12.98 to 7.12.12	Department of Defence
7.3.13	Commences in your agency
<p><i>Continuity is not broken for the purpose of the LSL Act even though the employee was unemployed between ceasing with the Department of Defence on 7.12.12 and commencing with your agency on 7.3.13. This is because the break between the two dates is 89 calendar days, well within the 12 month limit.</i></p> <p><i>Note: when counting the days between cessation and commencement, the first day you count is the day after the cessation date and the last day you count is the day before the commencement date. In the example above, day 1 would be 8.12.12 and day 89 is 6.3.13.</i></p>	

2.6 Exercise 1

Exercise 1	
Ms Brown has commenced in your agency with the following service:	
8.12.03 to 7.12.12	Department of Climate Change
7.3.13	Commences in your agency
<p><i>What is the LSL accrual date?</i></p>	

2.7 Leave counting as service for LSL

If an employee takes approved leave during a period of employment, this is **not** considered to be a 'break in service'. Continuity of service is not broken by periods of leave with pay, part pay or without pay. However, leave not to count as service, defers the accrual date of LSL.

In accordance with section 12 of the LSL Act, the following types of leave count as service for LSL purposes:

- Any leave with pay or part pay (note Maternity Leave 'on half pay' is actually paid leave and LWOP with an administrative arrangement in place to spread payment, not leave on part pay);
- LWOP on account of illness; and
- LWOP in respect of a period for specified defence service (section 12(10) of the LSL Act).

LWOP (excepting for illness, defence service or to occupy an executive office) **does not** count as service for the purposes of LSL **unless**:

- an agency head or the person who granted the LWOP determined (otherwise than under this Act), either at the time of the grant or at a later time, that the period of absence be included in the person's period of service for the purpose of the granting of LSL; or
- the approving authority determines under this Act that the period of absence be included in the period of service for the purposes of this Act.

LWOP granted for the purposes of undertaking full-time union duties, as defined in section 12(11) of the LSL Act and LSL Regulation 4E, counts as service for the **qualifying periods** set out in the LSL Act, but **no credit accrues** for the period of LWOP (sub-section 12(4) of the LSL Act).

Example 2	
7.12.03 - continuing	Department of Foreign Affairs and Trade
7.3.06 – 9.3.08 - LWOP to study, travel and work throughout Asia	
<p><i>Continuity is not broken for the purpose of the LSL Act even though the employee was on LWOP that was not determined to count as service for two years from 2006 to 2008.</i></p> <p><i>The effect that this has, however, is that instead of being credited with LSL 10 years after commencement (scheduled for 6.12.13), the accrual date is deferred by the total number of calendar days of the LWOP (734 calendar days). The date of accrual will now be 10.12.15.</i></p>	

Exercise 2

Mr Green has already completed 10 years' service and has an annual accrual date, for LSL, of 1 June each year.

Mr Green took LWOP from 5 March 2013 to 28 March 2013.

1.6.12	Last accrual of LSL
5.3.13 to 28.3.13	LWOP
<i>When will Mr Green next accrue LSL?</i>	

ALL LWOP (EXCEPT FOR ILLNESS, DEFENCE SERVICE) DEFERS THE ACCRUAL DATE, IN ACCORDANCE WITH THE LSL ACT, UNLESS THE AGENCY HEAD DETERMINES OTHERWISE ON A CASE BY CASE BASIS. THE EA PROVISION CANNOT DISPLACE THE LSL ACT PROVISION!

2.8 Transfer of funds for LSL liability

In accordance with Part 11 of the *Financial Management and Accountability Regulations 1997*, payment for leave liability is to be transferred between agencies if:

- (a) an employee in an Agency (the ***old employer***) moves to another Agency, a Commonwealth authority or the High Court of Australia, (the ***new employer***); and
- (b) some or all of the employee's accrued leave entitlements are transferred to the new employer as part of the employee's move; and
- (c) the move is not a direct consequence of the transfer of a government function.

Within 30 days of the receipt of a correctly rendered invoice from the new employer, the old employer must pay to the new employer an amount equal to the sum of the value, worked out on the basis of the employee's salary immediately before leaving the old employer, of:

- (a) the employee's annual leave entitlement at that time; and
- (b) the employee's ***long service leave entitlement*** at that time.

Note: long service leave entitlement, for an employee, means:

- (a) the period of long service leave to which the employee is legally entitled; or
- (b) if the employee is not legally entitled to any long service leave — the amount worked out by multiplying the notional amount of long service leave to which the employee is entitled for a year of service by the weighting factor set out in the following table that applies to the number of years of service the employee has completed.

Years of service	Weighting factor
Less than 1	0.5
At least 1 but less than 2	0.6
At least 2 but less than 4	0.7
At least 4 but less than 6	0.8
At least 6 but less than 8	0.9
At least 8	1.0

Where, for example, an employee has moved from one employer to another for a short period (and will be returning to the old employer), the employers may agree that it is not efficient to invoice and transfer funds under this regulation (as long as the employee will not be deprived of access to relevant leave).

Agency is defined in section 5 of the Act. It includes a Department of State, a Department of the Parliament and an Agency prescribed by the FMA Regulations.

Commonwealth authority has the same meaning as in the *Commonwealth Authorities and Companies Act 1997*.

For more information, see www.finance.gov.au

Example 3

A new employee commenced in your agency on 1 April 2013 with the following service:

1.4.06 – 31.3.13

Department of Health

The employee would not have any LSL credits because they have not yet completed 10 years of service.

The LSL liability to be transferred would be calculated:

Years x 0.3 months' LSL x weighting factor. i.e. $7 \times 0.3 \times 0.9 = 0.27$ months LSL liability

The weighting factor is 0.9 because of the 7 years' service (between 6 and 8 years on the weighting factor table).

Example 4

A new employee commenced in your agency on 1 April 2013 with more than 10 years' service and a LSL balance of 3.9 months is transferred:

The LSL liability to be transferred would be 3.9 months.

2.9 REVISION QUIZ

1. In your own words, what is 'prior service'?

2. Why is it necessary?

3. Who has responsibility for the process?

4. Who decides / approves the recognition?

5. Can it be refused (explain your answer)?

6. Who pays for the leave that is credited as a result of recognition of prior service?

3. Movement between employers

Where an employee moves (ie. with no break in service) between **Government Service employers as defined by section 10** the LSL Act, the employee **does not cease** to be an employee for the **purposes of the LSL Act**, even though they may be resigning from one agency and commencing with another.

In these circumstances employment is considered to be continuous and the employee should not be paid in lieu of LSL at the time of movement/cessation. The losing agency is required to transfer the accrued credit and associated funds to the gaining agency.

Further, on cessation, an employee may request **NOT** to be paid in lieu (s. 17(3) of the LSL Act). In this case, if there is a break in service between LSL Act employers, there may be a credit to be reinstated on commencement.

The provision for this rule is in the *Financial Management and Accountability Act 1997* for agencies covered by this Act; and is also required of many agencies covered by the *Commonwealth Authorities and Companies Act 1997*. You can find out which Act your agency is established under, by searching the Department of Finance and Deregulation website for ‘FMA Act agencies’ and ‘CAC Act agencies’.

4. Granting LSL

The legal authority for the crediting of LSL is the *Long Service Leave (Commonwealth Employees) Act 1976* (LSL Act) and the *Long Service Leave (Commonwealth Employees) Regulations 1957* (LSL Regs).

4.1 How does LSL accrue?

LSL accrues at the rate of three tenths (3/10) of a month (0.3 of a month or 9 days) for each year of service. The rate of accrual is the same whether an employee works full-time or part-time hours. However, in the case of a part-time or casual employee, the credit is based on the number of hours worked per week, and the employee will receive the part-time rate of pay when they take LSL.

4.2 When is LSL granted?

In accordance with Section 16 of the LSL Act, an employee is not eligible to be granted LSL unless his, or her, period of service is at least 10 years. The only exceptions to this is where an employee, with at least 1 year of service, is to cease employment on attaining the minimum retiring age or is retrenched (Section 17 of the LSL Act). In these cases, the employer may grant to him or her LSL on full salary, to be taken immediately before he or she ceases.

Note: this is different to the situations in which payment in lieu of LSL can be made for employees with service of less than 10 years, which is covered later in this workbook.

4.3 Calculating LWOP NTCAS for LSL

Individual periods of LWOP NTCAS are calculated from the time the leave commences until the last day of the leave, that is, it will include weekends and non-working (i.e. non-rostered) days. Rostered Days Off (RDOs) are not counted as LWOP NTCAS.

Example 5	
Tues 26.3.13 – Thurs 11.4.13 (inclusive)	LWOP NTCAS
Tues 9.4.13	RDO
29.3.13 & 1.4.13	Public holidays
<p><i>The period of LWOP is 16 calendar days:</i></p> <p><i>17 calendar days from Tues 26.3.13 to Thurs 11.4.13, minus the 1 day RDO.</i></p> <p><i>The public holidays are not paid, nor do they reduce the days of the LWOP, because they fall within a period of LWOP NTCAS.</i></p>	

5. Calculating LSL credits

The formulae for calculating LSL credits are provided by section 18 of the LSL Act.

LSL accrues at the rate of 3/10ths (0.3) of a month (9 days) for each year of service. This rate of accrual applies to all service, whether it is part-time or full-time. Part-time LSL is discussed in a later section of this guide.

Completed years of service x 3/10 (0.3) months = months of LSL credited

Example 6		
Completed years of service	Calculation	Months of LSL credited
10	$10 \times 0.3 = 3.0$	3
15	$15 \times 0.3 = 4.5$	4.5
20	$20 \times 0.3 = 6.0$	6

Any LSL already taken or paid in lieu is deducted from the result to give the current LSL entitlement.

Example 7		
Months of LSL based on completed years	Less months of leave taken/paid in lieu	Current balance
3	0.5	2.5
4.5	0.4	4.1

Converting part months into days

For the purposes of LSL, a month is always 30 days, regardless of the actual days in the month the leave is taken.

Therefore, a quantity of a leave credit (expressed in months) is multiplied by 30 to give a result in actual calendar days.

Example 8		
Months of LSL credit	Calculation	LSL credit in months and calendar days
0.6	$0.6 \times 30 = 18.0$	18
3	$3.0 \times 30 = 90$	90
1.9	1 month and $(0.9 \times 30) = 1 \text{ month and } 27$	1 month and 27 days

Converting days into months

Employees may request LSL in periods of at least 7 calendar days and short periods of leave (rather than full months at a time), or leave at half pay, are common.

Therefore, a quantity of leave (expressed in calendar days) is divided by 30 to give a result in months.

Example 9		
Calendar days requested	Calculation	Months deducted
15	$15 \div 30 = 0.5$	0.5
21	$21 \div 30 = 0.7$	0.7
1 month and 7 days	1 month and $(7 \div 30 = 0.2333)$	1.2333

5.1 Exercise 3

Exercise 3

Mr White commenced in the APS on 1 March 1999, has had no periods of leave not to count as service and has taken no LSL.

Calculate his LSL balance as at 1 March 2013.

Expressed in months	
Expressed in months and days	

6. Minimum periods for taking LSL

Unlike other forms of leave, which are calculated on a working day basis, weekends and public holidays are regarded as part of the LSL period. That is, weekends, public holidays and normal working days, within the period of an application, are counted towards the total number of days of LSL deducted.

The LSL Act expresses leave in months and fractions of a month (s.4(3)). When an employee applies for one month's LSL e.g. 12 March to 11 April, this equals one month, as does 1 February to the end of February also equal one month.

Agencies should not grant LSL in patterns which would exclude weekends or public holidays from periods of LSL. The granting of leave in such patterns would unfairly advantage employees and add to the costs and LSL liabilities of agencies. The Bargaining Framework's recommended terms and conditions require that agency enterprise agreements include this condition.

Agencies should not grant LSL:

- for periods of less than seven calendar days; or
- in patterns where a period of annual leave breaks the LSL period, e.g. LSL/Annual Leave/LSL.

However, agencies can grant LSL in combination with Annual Leave in patterns provided the LSL is not split to provide such advantage. For example, Annual leave / LSL / Annual Leave / return to work.

Sub-section 6(7) of the Maternity Leave Act allows employees access to paid leave while on unpaid maternity leave. This means that any application for long service leave during a period of unpaid maternity leave must be granted, provided the applicant is eligible for the paid leave requested.

7. The use of LSL in conjunction with other leave

LSL can only be granted when a leave request is lodged by the employee. Employees do not have an automatic right to LSL being approved, except where the employee is on parental leave or maternity leave without pay.

7.1 Maternity leave / Parental leave and LSL

In accordance with section 6(7) of the *Maternity Leave (Commonwealth Employees) Act 1973*, a female employee who is on unpaid maternity leave under the *Maternity Leave (Commonwealth Employees) Act 1973* is entitled to access any paid leave credits to which she is entitled to and can do so in any pattern. This is the only circumstance where any type of leave pattern involving LSL will be approved that would not normally be acceptable.

Having said that, any period of LSL must still be of at least 7 days' duration.

7.2 Sick / Compassionate / Bereavement leave during LSL

The agency enterprise agreement is the authority to determine whether an employee can be granted such leave while on LSL.

If so, LSL leave should be granted in full day amounts, not part days. Where applicable, LSL should be re-credited or granted to the employee.

Example 10	
An employee on LSL:	
8.4.13 to 24.4.13	On approved LSL
23.4.13 to 30.4.13	Provided a medical certificate stating she was unfit for duty for this period (inclusive) due to a broken ankle.
The agency enterprise agreement allows for an employee to access paid personal leave while on LSL.	
Two days of LSL (23 & 24 April) would be re-credited. Five days of Personal leave would be deducted ie. working days in the period covered by the medical certificate noting that 25 April is a public holiday and, therefore, would not be deducted. Alternatively, if the supervisor agrees, the employee may remain on LSL for a further 2 days after the medical certificate expires (1 and 2 May) and return to work on 3 May 2013, rather than have the 2 days' LSL re-credited.	

8. Outside employment and LSL

Agencies should have guidelines where an employee wishes to engage in outside employment during periods of long service or other kinds of leave. A formal application for permission to do so is usually required.

9. Practical exercises

Exercise 4

Ms Violet has applied for one month of LSL starting on 1 February 2014.

What is the end date of the LSL? How much LSL would be deducted?

1 February 2014 -

If she changed her mind and wanted the LSL to commence on 1 March 2014, what would the end date be? How much LSL would be deducted?

1 March 2014 -

9.1 Exercise 5

Exercise 5

Mr Black has applied for the following leave:

Leave type	From	To
Annual leave	25 November 2013	13 December 2013
LSL	16 December 2013	24 December 2013
Annual leave	2 January 2014	3 January 2014

Is this pattern of leave acceptable? Why, or why not?

9.2 GROUP EXERCISE

Exercise 6	
Ms Scarlett has the following service:	
1 July 1991 to 1 July 2005 1 June 1998 to 1 September 1998	Department of Agriculture, Fisheries and Forestry LWOP NTCAS
Requests not to be paid out for remaining LSL balances on cessation from DAFF	
1 August 2005 to 1 March 2013 1 January 2007 to 30 June 2007	Bureau of Meteorology LSL at half pay
4 March 2013	Commenced Department of Climate Change and Energy Efficiency
What is Ms Scartlett's LSL Balance on commencement?	
Balance in months:	
Balance in months and days:	
When will Ms Scarlett next be credited with LSL (next accrual date)?	

10. Part-time service and LSL

A part-time or casual employee's LSL credit is the same as a full-time employee's credit however, the rate of pay, when taking LSL, is based on the number of hours worked per week. It is the part-time rate of pay that is the amount of pay they receive when they take LSL.

If an employee has both full-time LSL credits and part-time LSL credits, they need to state which credits they want to take when applying for LSL.

Note that casual service generally attracts a salary loading in lieu of some paid leave and public holidays. It is important to check what types of paid leave the loading covers as, if LSL is included in any loadings, this is treated as payment in lieu for the purposes of the LSL Act.

An employee using periods of **both** full-time and part-time service will receive different payments for the two period of leave – one calculated for full-time service and the other for part-time service. The employee is able to choose from which credit the LSL is taken regardless of whether they are part-time or full-time at the time they take their LSL.

Any full-time LSL is taken at the current full-time rate of pay. Any LSL taken as part-time is paid on a proportional basis of current full-time salary with average weekly hours calculated as detailed in section 10.4 of this workbook.

10.1 Category A and category B employees

Under Section 4 of the LSL Act, employees with part time service are defined as either Category A or Category B employees.

- Category A employees have all part-time (or all full-time) service; and
- Category B employees are employees other than Category A - meaning employees with both full-time and part-time service.

Part-time credits for Category A and Category B employees accrue at the same rate as full-time credits, that is:

Completed years of service x 3/10 (or 0.3) months = months of LSL

Any LSL already taken or paid in lieu is then deducted from the result to give the current LSL entitlement.

10.2 Proportioning the LSL credit for Category B employees

The LSL credit for Category B (both full-time and part-time service) employees is proportioned into two credits: one for their full-time service; and one for their part-time service.

To calculate the total LSL credit:

- Calculate the total length of service;
- If the part-time service is the most recent, calculate the full-time service first, then the part-time; and
- If the full-time service is the most recent, calculate the part-time service first, then the full time.

Note: Where the part-month of service is less than 15 days, round the service DOWN. Where the part-month is 15 days or more, round the service UP, to make a complete month. Where the part-month is 15 days at a part-time rate, round DOWN.

Example 11			
Service type	Dates	Hours / week	Total service
Part-time	1 July 1996 to 30 September 2004	20	8 years & 3 months
Full-time	1 October 2004 to 31 March 2013	N/A	8 years & 6 months
TOTAL SERVICE (1 July 1996 – 31 March 2013)			16 years & 9 months
Calculate completed service			
<u>Completed</u> service from 1 July 1996 to 30 June 2012 is 16 years.			
Calculate LSL entitlement			
LSL entitlement is $16 \times 0.3 = 4.8 \text{ months}$ LSL (or 4 months and 24 days).			
Calculate proportion of completed service that is part-time (the service that falls first)			
Subtract the rounded part-time service from the total service for LSL:			
16 years less 8 years and 3 months of part-time service = 7 years and 9 months.			
Note: if part-time service falls last, subtract the rounded full-time service from the total completed service:			
Part-time service (of 16 yrs completed svc)		Full-time service (of 16 yrs completed svc)	
8 years and 3 months or 8.25 years		7 years and 9 months or 7.75 years	
Calculate part-time LSL credit			
8 years and 3 months (8 and 3/12 or 8.25) $\times 0.3 = 2.475$ months of part-time LSL.			
Calculate full-time LSL credit			
7 years and 9 months (7 and 9/12 or 7.75) $\times 0.3 = 2.325$ months of full-time LSL.			
Check total credit			
$2.475 + 2.325 = 4.8 \text{ months}$			

Example 12			
Type	Dates	Hours/week	Total service
Full-time	8 July 1999 to 12 August 2004	f/t	5 years, 1 month & 5 days
Part-time	13 August 2004 to 31 March 2013	22	8 years, 7 months & 20 days
TOTAL SERVICE (8 July 1999 – 31 March 2013)			13 years, 8 months & 25 days
Calculate completed service <u>Completed</u> service from 8 July 1996 to 7 July 2012 is 13 years.			
Calculate LSL entitlement LSL entitlement is $13 \times 0.3 = 3.9 \text{ months}$ LSL (or 3 months and 27 days).			
Calculate proportion of completed service that is full-time (the service that falls first) Subtract the rounded full-time service from the total service for LSL: 13 years less 5 years and 1 month (round part month down (5 days)) of full-time service = 7 years and 11 months. Note: if full-time service falls last, subtract the rounded part-time service from the total completed service:			
Full-time service (of 13 yrs completed svc) 5 years and 1 month or 5.08 years		Full-time service (of 13 yrs completed svc) 7 years and 11 months or 7.92 years	
Check 5 years and 1 month + 7 years and 11 months = 13 years or 5.08 years + 7.92 years = 13 years			
Calculate full-time LSL credit 5 years and 1 month (5 and 1/12 or 5.08) $\times 0.3 = 1.524$ months of full-time LSL.			
Calculate part-time LSL credit 7 years and 11 months (7 and 11/12 or 7.92) $\times 0.3 = 2.376$ months of partl-time LSL.			
Check total credit $1.524 + 2.376 = 3.9 \text{ months}$ (3 months and (0.9 \times 30) 27 days) or (3.9 \times 30= 117 days)			

10.3 Exercise 7

Exercise 7		
Ms Cerise has the following service:		
Type	Hours per week	Dates
Part-time	20	1 August 2002 to 31 August 2008
Full-time	N/A	1 September 2008 to 31 March 2013
Calculate Ms Cerise's total service:		
Calculate Ms Cerise's completed years of service:		
Calculate Ms Cerise's LSL entitlement (based on completed years):		
Calculate the proportion of part-time service (of completed years):		
Calculate Ms Cerise's part-time credit:		
Calculate the proportion of full-time service (of completed years):		
Calculate Ms Cerise's full-time credit:		

10.4 Averaging hours for payment during part-time LSL

At the time a Category A or Category B employee takes their part-time LSL, payment is made at the greater of:

- the average of the hours per week worked over the whole period of part-time service; **or**
- the average of the hours per week worked in the last 12 months of part-time service.

Note: the LSL Act (Sect 20(4), definition of *relevant period* part(b)) defines the period for this calculation as ‘the period ... before the day on which the leave commences’.

There is no provision under the LSL Act to convert part-time credits for full-time credits, or vice-versa.

For current part-time employees the salary used is the current full-time salary, proportioned to reflect the part-time rate.

Section 20 of the LSL Act refers to the rate of salary to be paid during LSL.

Example 13

Calculate the average weekly hours on which to base payment while on LSL for an employee who has the following service:

Dates	Time period	Hours per week
1 April 2001 to 31 March 2004	3 years	26
1 April 2004 to 31 March 2013	9 years	20

What is the employee's average weekly hours for LSL purposes?

Step 1 – calculate the number of calendar days worked for each period of service:

3 years @ 26 hours per week	1106
9 years @ 20 hours per week	3307

Step 2 – convert the days to weeks:

Service	Calendar days	Calculation (days ÷ 7)	Total weeks
3 years	1106	$1106 \div 7$	158
9 years	3307	$3307 \div 7$	472.43
TOTAL			630.43

Step 3 – Calculate total hours:

Hrs/week	Weeks	Calculation (weeks x hrs/week)	Total hours
26	158	158×26	4108
20	472.43	472.43×20	9,448.6
TOTAL			13,556.6

Step 4 – Calculate average hours per week:

Total hrs	Total weeks	Calculation (total hrs ÷ total weeks)	Average hrs per week
13,556.6	630.43	$13,556 \div 630.43$	21.5

Step 5 – Calculate average hours per week over the last 12 months:

The employee has worked **20** hours per week over the last 12 months of part-time service.

Step 6 – Determine which is greater, average over the whole period or average over the last 12 months of part-time service:

Average hrs/week over whole period	Average hrs/week over last 12 mths
21.5	20

Final answer

So, payment is made for LSL (part-time hours) based on 21.5 hours per week.

Example 14

A Category B employee has both full-time LSL credits and part-time LSL credits. They have applied for 4 months' LSL from 1 April 2013 to 31 July 2013, and have applied to use all available full-time credits first. They have the following service:

Dates		Hours per week	Time period	Total days	Weeks (days ÷ 7)	Total hours (weeks x hrs / wk)
Full-time service	16.11.98 to 31.12.06	Full / time	8 years 1 month 15 days	2968	-	-
Total full-time			8 years, 1 month and 15 days			
Part-time service	1.1.07 to 31.12.07	22.05	1 year	365	52.14	1149.69
	1.1.08 to 30.6.08	29.4	6 mths	182	26	764.4
	1.7.08 to 31.12.09	22.05	1 year 6 mths	549	78.43	1729.38
	1.1.10 to 31.12.12	29.4	3 years	1096	156.57	4603.16
	1.1.13 to 31.3.13	24	3 mths	90	12.86	308.64
	Sub totals - part-time		6 years 3 mths	2282	326	8555.27
TOTAL SERVICE (full-time & part-time)			14 years & 4 months and 15 days (total completed svc is 14 years – 16.11.98 – 15.11.13)			
Average weekly hours						
Total p/t service	1.1.07 to 31.3.13		Time period	Total days	Weeks (days ÷ 7)	Total hours (weeks x hrs / wk)
			6 years 3 mths	2282	326	8555.27
	Average weekly hours (total hours ÷ total weeks)			8555.27 ÷ 326		26.24
Last 12 months	1.4.12 to 31.12.12	29.4	9 mths	275	39.29	1155.13
	1.1.13 to 31.3.13	24	3 mths	90	12.86	308.64
	Sub totals		1 year	365	52.15	1463.77
	Average weekly hours (total hours ÷ total weeks)			1463.77 ÷ 52.15		28.07

Total service for LSL purposes		14 years of completed total service	
The part-time service falls last, therefore, calculate and round the full-time service first.			
Full-time service	8 years, 1 month and 15 days	Rounded up to completed months: 8 years and 2 months of completed full-time service	Full-time LSL credit is: 8 and 2/12 years (or 8.1667) x 0.3 = 2.45 months or 2 months and 13.5 days
Part-time service	To calculate the duration of part-time service, subtract the rounded full-time completed service from the total completed service	14 years of completed total service – 8 years and 2 months completed full-time service = 5 years and 10 months of completed part-time service	Part-time LSL credit is: 5 and 10/12 years (or 5.8333) x 0.3 = 1.75 months or 1 month and 22.5 days
Check	Full-time – 2.45 months or 2 months and 13.5 days or 73.5 days + Part-time – 1.75 months or 1 month and 22.5 days or 52.5 days = Total – 4.2 months or 4 months and 6 days or 126 days Compared with: 14 completed years – 14 x 0.3 = 4.2 months or 4 months and 6 days		
LSL applied for: 1 April 2013 – 31 July 2013 (4 months)			
Full-time credits: 2.45 months or 2 months and 13.5 days		1 April 2013 to half of 13 June 2013 (2.45 months or 2 months, 13.5 days), paid at the full-time rate.	
Part-time credits: 1.75 months or 1 month and 22.5 days		Half of 13 June to 31 July 2013 (1.65 months or 1 month, 19.5 days), paid at the greater of the 2 part-time rates which is over the last 12 months – 28.07 average weekly hours.	
<p>While on LSL, even while using the full-time LSL, the employee is still a part-time employee for the purposes of leave accrual, as long as the part-time agreement continues. Similarly, accruals are at the current rate of 28.07 hours per week (the amount of the current part-time work arrangement).</p> <p>Remaining balance after LSL would be 0.1 months (or 3 days) part-time LSL:</p> <p>2.45 months’ full-time + 1.65 months’ part-time = 4.1 months’ LSL taken</p> <p>All of the full-time credit has been exhausted.</p> <p>Of the 1.75 months’ part-time credit, 1.65 months’ LSL has been taken: (1.75 – 1.65 = 0.1) so, 0.1 months remains; or 0.1 x 30 = 3 days’ LSL</p>			

10.5 Exercise 8

If an employee took LSL, or was paid in lieu, in their eligible prior employment, they are still able to have that service recognised for qualifying service under the LSL Act, but their credits are to be adjusted accordingly. Note that some employment eligible for recognition of prior service may have attracted a salary loading in lieu of LSL. This is treated as payment in lieu for the purposes of the LSL Act.

The LSL Act does not allow employees with recognised prior service to buy back any LSL taken or paid in lieu.

Exercise 8			
Mr Grey is a category A employee with the following service:			
Dates	Time period	Hours per week	
1.4.2000 to 31.3.2008	8 years	30	
1.4.2008 to 31.3.2013	5 years	25	
What is Mr Grey's average weekly hours for part-time LSL credits?			
Step 1 – calculate the number of calendar days worked for each period of service:			
8 years @ 30 hours per week		2922	
5 years @ 25 hours per week		1826	
Step 2 – convert the days to weeks:			
Service	Calendar days	Calculation (days ÷ 7)	Total weeks
8 years @ 30 hrs/week	2922		
5 years @ 25 hrs/week	1826		
TOTAL			
Step 3 – Calculate total hours:			
Service hrs/week	Weeks	Calculation (weeks x hrs/week)	Total hours
8 years @ 30 hrs/week			
5 years @ 25 hrs/week			
TOTAL			
Step 4 – Calculate average hours per week over the entire part-time service:			
Total hrs	Total weeks	Calculation (total hrs ÷ total weeks)	Average hrs per week
Step 5 – Calculate average hours per week over the last 12 months:			
Over the last 12 months of part-time service, Mr Grey has worked average hours of: _____			
Step 6 – Determine which is greater, average over the whole period or average over the last 12 months of part-time service:			
Average hrs/week over whole period		Average hrs/week over last 12 mths	
Final answer			
So, payment is made for LSL (part-time hours) based on: _____ hours per week.			

11. Casual (irregular or intermittent) service and LSL

Employees who are called upon at irregular intervals to perform short periods of duty for an organisation are able to accrue LSL credits provided that any break in employment is not more than 12 months. For such employees, service for LSL purposes is calculated as follows:

- Full-time service – isolated periods of full-time service for one or more weeks are added together; and
- Part-time service — each isolated period of service which is less than the prescribed full-time hours per week is regarded as one week's part-time service and these weeks of service are added together.
- Add these weeks of service together to determine a total number of weeks.

The service expressed in weeks is then converted to years, months and days by the following formula:

$$\frac{(\text{Total weeks} \times 7)}{30}$$

That is: by multiplying the total expressed in weeks by seven gives a total in days.

Dividing this total expressed in days by 30 gives a total in months and part months.

To convert the months to years, months and days, take each 12 months as 1 year and each 30 days as 1 month leaving a remainder of days.

Example 15

An employee has the following periods of casual service:

Date	Duration	
27.6.11 to 30.6.11	4 days (regarded as one week)	
12.9.11 to 21.12.12	68 weeks	
28.1.13 to 8.2.13	2 weeks	
25.2.13 to 28.2.13	3 days (regarded as one week)	
11.3.13 to 29.3.13	3 weeks	
Add these weeks of service together to calculate total weeks: 1 + 68 + 2 + 1 + 3 = 75 weeks total part-time irregular service		
Convert total weeks to days (total weeks x 7)	75 x 7	525 days
Express total days in months and days (total days ÷ 30)	525 ÷ 30	(17.5) = 17 months and 15 days
Express total in years, months and part months	1 year, 5.5 months (15 days)	

11.1 Case study

Case Study 1			
Ms Silver wants to take LSL in November 2014 and has the following employment and leave history:			
6.10.03	Commenced in APS employment		
5.10.13	LSL scheduled to accrue (commencement date plus 10 years)		
26.5.10 to 12.11.10 (171 calendar days)	LWOP NTCAS		
25 March 2014 (5.10.13 + 171 calendar days)	New LSL accrual date (scheduled date plus LWOP NTCAS)		
Ms Silver has prior service with the Australian Defence Force, as a casual employee working only during the school holidays, as follows:			
8.1.01 to 5.10.03	Total period		
Breakdown of ADF casual service:			
Periods of service	Days per week	Hours per day	Weeks
8.1.01 – 2.2.01	3	5	4
9.4.01 – 20.4.01	4	5	2
2.7.01 – 13.7.01	3	4	2
17.9.01 – 5.10.01	3	4	3
7.1.02 – 25.1.02	5	5	3
8.4.02 – 19.4.02	4	4	2
24.6.02 – 5.7.02	3	4	2
16.9.02 – 20.9.02	4	4	1
6.1.03 – 24.1.03	4	4	3
7.4.03 – 18.4.03	4	4	2
30.6.0 - 18.7.03	3	4	3
22.9.03 – 3.10.03	3	4	2
Total			30

<u>Step 1</u> – calculate period of service		Total casual service in weeks	30
Convert total weeks to days (total weeks x 7)		30 x 7	210 days
Express total days in months and days (total days ÷ 30)		210 ÷ 30	7 months
<u>Step 2</u> – Calculate new LSL accrual date, taking into account prior service			
LSL accrual date before taking into account prior service	Commencement date (6.10.03) + 10 years = 5.10.13 + LWOP NTCAS (171 days)		25.3.14
LSL accrual date accounting for prior service	25.3.14 less the casual service (210 days) – brings the date forward to account for casual service		27.8.13
On 27.8.13, Ms Silver will be credited with LSL which will be 3 months (10 x 0.3). However, some of the LSL will be full-time credit and some will be part-time credit.			
<u>Step 3</u> – Calculate the proportions of full-time service and part-time service (of total service in completed years):			
To work out the proportion of full-time and part-time service, the part-time service is rounded down to completed months then subtracted from the total service (completed years).			
10 years less 7 months part-time (casual) service		9 years and 5 months	
<u>Step 4</u> – Calculate the part-time LSL credit			
Part-time LSL credit is: 7 months - 7/12 of a year or 0.5833 years. Multiply the part-time service duration by the full credit for a year (0.3) to determine the credit for the 7 months: 0.5833 x 0.3 = 0.175 of a month. Convert to days: 0.175 of one month (or 30 days): (0.175 x 30) = 5.25 days.			
Summary of part-time Of Ms Silver’s 10 years’ service, 7 months is part-time service attracting part-time payment when taking (or being paid in lieu for) any LSL attributed to that service. The 7 months’ part-time service means that, of the 3 months’ LSL credited at 10 years, 0.175 months or 5.25 days is part-time credit.			

Step 5 – Calculate the full-time LSL credit

Full-time LSL credit is: 9 years and 5 months – $9 + 5/12$ of a year (or 0.4167) = 9.4167 years.

Multiply the full-time service duration by the full credit for a year (0.3) to determine the credit for the 9 years and 5 months:

$$9.4167 \times 0.3 = 2.825 \text{ months.}$$

Convert to months and days: 2 months + 0.825 of one month, or 30 days is

$$(0.825 \times 30 = 24.75) = 2 \text{ months and } 24.75 \text{ days.}$$

Summary of full-time

Of Ms Silver's 10 years' service, 9 years and 5 months is full-time service attracting full-time payment whilst on LSL, or when paid in lieu.

The 9 years and 5 months' part-time service means that, of the 3 months' LSL credited at 10 years, 2 months and 24.75 days is full-time credit.

Step 6 – Check

Part-time credit is 5.25 days and full-time credit is 2 months and 24.75 days. This should add up to 3 months, being the total credit for 10 years' service.

$$2 \text{ months and } 24.75 \text{ days} + 5.25 = 2 \text{ months and } 30 \text{ days or } 3 \text{ months (30 days is a month).}$$

Step 7 – Averaging the hours for payment during part-time LSL

At the time a Category A or Category B employee takes their part-time LSL, payment is made at the greater of:

- The average of the hours per week worked over the whole period of that part-time service; or
- The average of the hours per week worked in the last 12 months of part-time service.

Average hours per week over the whole period of part-time (casual) service:				
Date span	Actual days worked	Weeks (days ÷ 7)	Hours per week	Total hours (weeks x hrs/week)
8.1.01 – 2.2.01	19	2.7143	15	(2.7143 x 15) = 40.7145
9.4.01 – 20.4.01	12	1.7143	20	(1.7143 x 20) = 34.2860
2.7.01 – 13.7.01	12	1.7143	12	(1.7143 x 12) = 20.5716
17.9.01 – 5.10.01	19	2.7143	12	(2.7143 x 12) = 32.5716
7.1.02 – 25.1.02	19	2.7143	25	(2.7143 x 25) = 67.8575
8.4.02 – 21.4.02	14	2.000	16	(2.000 x 16) = 32.0000
24.6.02 – 5.7.02	12	1.7143	12	(1.7143 x 12) = 20.5716
16.9.02 – 22.9.02	7	1.000	16	(1.000 x 16) = 16.0000
6.1.03 – 26.1.03	21	3.000	16	(3.000 x 16) = 48.0000
7.4.03 – 18.4.03	12	1.7143	16	(1.7143 x 16) = 27.4288
30.6.03 – 18.7.03	19	2.7143	12	(2.7143 x 12) = 32.5716
22.9.03 – 3.10.03	12	1.7143	12	(1.7143 x 12) = 20.5716
Totals		25.4287	-	393.1448
<p>Divide the total hours by the total number of weeks:</p> <p>$393.1448 \div 25.4287 = 15.4607$ hours or 15 hours and 28 minutes ($0.4607 \times 60 = 27.642$, round up to 28 mins).</p> <p>Average hours of the whole period is: 15 hours and 28 mins</p>				

Average hours per week over the last 12 months of part-time (casual) service:				
Date	Days	Weeks (days ÷ 7)	Hours per week	Total hours (weeks x hrs/week)
3.10.02 – 5.1.03 – 0 hours (did not work)	21	3.000	16	(3.000 x 16) = 48.0000
6.1.03 – 26.1.03				
7.4.03 – 18.4.03	12	1.7143	16	(1.7143 x 16) = 27.4288
30.6.03 – 18.7.03	19	2.7143	12	(2.7143 x 12) = 32.5716
22.9.03 – 3.10.03	12	1.7143	12	(1.7143 x 12) = 20.5716
Totals		9.1429	-	128.572
<p>Divide the total hours by the total number of weeks:</p> <p>$128.572 \div 9.1429 = 14.0625$ hours or 14 hours + (0.0625 x 60 = 3.75, round up to 4 minutes).</p> <p>Average hours over the last 12 months of part-time (casual) service is: 14 hours and 4 mins</p>				
Step 4 – Identify the greater of the average hours				
<p>Average hours of the whole period is: 15 hours and 28 mins</p> <p>Average hours over the last 12 months of part-time (casual) service is: 14 hours and 4 mins</p>				
Final answer				
<p><i>The greater of the average hours is 15 hours and 28 minutes so the average of Mr Silver's entire period of part-time (casual) service will be used to determine the rate of pay for part-time LSL credits.</i></p>				

12. Salary and allowances of employees on LSL

In accordance with section 20 of the LSL Act, calculating the salary of an employee on LSL depends on whether the employee has worked in a full-time or part-time capacity throughout his or her career. If the employee has worked part-time, it will also depend on whether the employee's hours have varied during that part time service.

(a) if the employee has been employed in a **full-time capacity** throughout their period of service their current full time salary is payable during LSL.

(b) if the employee has been employed in a **part-time capacity** throughout their period of service and there has been no change in the number of hours per week their normal part time salary is payable during LSL.

(c) if the employee has been employed **in a part-time capacity** throughout his or her period of service **but there has been a change during that period in the number of hours per week** the payable salary during LSL is the greater of:

- the average of the hours per week worked over the whole period of part-time service; **or**
- the average of the hours per week worked in the last 12 months of part-time service.

If an employee elects to take LSL on half salary, the salary payable will then be halved.

12.1 LSL and higher duties allowance (HDA)

Under LSL Regulation 4B, HDA is payable during LSL provided:

- the employee was receiving HDA immediately before going on LSL, and
- the delegate certifies that the employee would have continued to act in a higher position but for going on LSL.

The LSL Regulations state that higher duties allowance is ‘an allowance payable to a person in respect of the performance of the duties of an office having a higher classification than his own’. This would include comparable allowances provided for in enterprise agreements, even if the terminology is different – e.g., temporary re-assignment allowance or temporary performance loading.

Example 16 An employee has the following details:	
7.4.13 to 28.9.13	In receipt of HDA
13.8.13 to 22.8.13	LSL application
<i>HDA will be payable for the duration of LSL because the employee will be in receipt of the allowance immediately prior to LSL and, it would have been payable if they were not on leave.</i>	

12.2 HDA and payment in lieu

In accordance with LSL Regulation 4B, HDA is included in salary for the purposes of payment in lieu of LSL, provided the employee has acted in one or a number of higher positions for a continuous period of at least 12 months immediately before cessation.

If they were acting continuously, but at different levels, during the period of 12 months or more, the rate included in salary is lowest of those levels.

Example 17 An employee retired on 12 April 2013 with the following HDA record:	
5.7.11 to 4.9.12	HDA EL1
5.9.12 to 12.4.13	HDA EL2
<i>Because the employee has been continuously in receipt of HDA for a period of 12 months or more immediately prior to cessation, HDA is included in salary for the purposes of payment in lieu of LSL at the EL1 rate.</i> <i>Had the employee retired on 1 September 2012, HDA would be included in salary at the EL1 rate.</i>	

12.3 LSL and other allowances

Regulations under section 8 and 8A of the LSL Act set out those allowances that are included in salary for the purposes of the LSL Act, and those payments that are not to be included in salary for those purposes.

The following regulations list the allowances that must be included in salary for the purposes of LSL both for leave granted and payment in lieu purposes:

- Reg 4 – Emoluments¹ included in salary (certain allowances specified)
- Reg 4B – Salary to include higher duties allowance (or equivalent)
- Reg 4C – Salary to include proficiency allowance (applies only to persons employed under the Snowy Mountains Hydro-electric Power Act 1949), and
- Reg 4DB – Salary to include tool allowance.

Under Regulation 4D, district allowance is included in salary for the purpose of leave granted.

LSL Regulation 4DC provides that certain payments, including shift penalties, overtime payments, restriction allowances and on-call allowance are not to be included in salary for the purposes of LSL.

12.4 Prepayments over two financial years

If an employee has requested a prepayment of leave, and this is approved, you should note that there are important tax implications if the prepayment is made over two financial years, as tax is assessed when income is **received**, not when it is earned.

For example, if a salary advance is paid in June (pay 26 or 27 or prior) and includes salary for the month of July (pay 1 onwards), the net salary which would have normally been received in the month of July, except for the prepayment request, will be added to the gross earnings on the payment summary at the end of June. The tax paid on that salary will not be on the payment summary as it will be paid in July. In these circumstances the employee could then be undertaxed.

It is important to advise employees of this tax implication if they wish to receive an advance. To avoid this, the employee could receive two advances, one at the start of their leave and the other at the start of the new financial year.

¹ Meaning of emolument - Payment.

13. Payment in lieu of LSL

Payment in lieu of any unused LSL credits is payable when an employee ceases Commonwealth employment.

Unlike when LSL is granted, payment in lieu of LSL on separation is calculated using the number of **completed years and months** of service, for example if the period of service is 16 years 9 months 5 days, completed years and months of *16 years 9 months* is counted for LSL payment in lieu purposes.

13.1 Payment for less than 10 years' service

Payment in lieu of LSL may be made to employees with less than 10 years of service, but who have at least 1 year of service if their cessation is a result of:

- age retirement;
- redundancy;
- invalidity retirement;
- death; or
- resignation due to ill health, with medical evidence stating:
 - the nature of the ill health; and
 - that the separation was due to ill health.

Where an employee with at least 12 months of service, but less than 10 years of service, ceases Commonwealth employment due to retrenchment or age retirement, they are eligible to take any pro-rata LSL which has accrued or receive payment in lieu. If pro-rata long service leave is granted as leave rather than payment in lieu, it must be taken on full pay and must expire immediately before the employee ceases employment. Refer to subsections 17(1) and 17(2) of the LSL Act.

Payment of pro-rata LSL on death

In the event of an employee's death, a pro-rata payment in lieu can be made to any dependants or the deceased's estate. Section 23 and Sub-sections 16(7) and 17(5) refer.

Payment of LSL on dismissal

Payment in lieu of LSL may be made in circumstances where an employee is dismissed by an agency:

- if on dismissal the employee has reached the minimum retiring age and has more than one year service s.17(1); or
- if on dismissal the employee has more than ten years of service, he or she is entitled to payment in lieu of LSL as provided by s.16(4).

13.2 Calculating payment for LSL in lieu

An employee may elect in writing, before ceasing, not to take a payment, or receive part-payment. This is normally because there is a likelihood that they will be commencing employment with another employer under the LSL Act or another employer is going to recognise their APS service.

Payment in lieu of LSL **cannot** be made where employees go on long term leave, move between agencies, go to a Parliamentary Service Department or go to Commonwealth statutory authorities on promotion or transfer. This is the case even if, for example, they are resigning from one agency (rather than transferring) and commencing with another agency as Commonwealth employment is considered to be continuous under the LSL Act.

The formula for calculating LSL in lieu is:

$$\frac{\text{Annual Salary}}{12} \times \text{LSL credit}$$

Example 18

An employee is ceasing with the following:

\$56,511	Annual salary
3.6 months'	LSL credit

Payment in lieu of LSL is calculated:

$$\frac{56,511}{12} \times 3.6 \text{ months} = \$16,953.30$$

13.3 Exercise 9

Exercise 9	
Mr Mint is retiring on 14.8.13. The following information is provided:	
21.7.1982	Commenced APS employment
\$89,893	Salary
LWOP NTCAS	Nil
LSL taken	Nil
How much LSL will he be paid in lieu?	
What will his gross payment be for LSL in lieu?	

13.4 Exercise 10

Exercise 10	
Ms Burgundy has resigned and her last day is 18.6.13. The following information is provided:	
19.2.75	Commenced APS employment
\$167,523	Salary
LWOP NTCAS / breaks in service	Nil
LSL taken	1 month on half pay 10.7.89 to 9.8.89
What is her LSL credit on resignation?	
What will her gross payment be for LSL in lieu?	

13.5 Taxing payment in lieu of LSL

Payment in lieu is split into three components for taxation purposes:

Service before 16 August 1978 (LSB)

Lump sum payment B (shown as B on the Payment Summary). Only 5% is taxed at the employee's marginal rate.

Service after 15 August 1978, but before 18 August 1993 (LSA)

Lump sum payment A (shown as A on the Payment Summary). Taxed at 31.5% (includes 1.5% medicare levy).

Service after 17 August 1993

Lump sum payment included in salary/wages of the Payment Summary. Taxed at the employee's marginal rate i.e. tax is calculated as if the lump sum was earned over a 12 month period.

Note The terms 'A' and 'B' above do not relate to the A and B used to distinguish combinations of full and part-time service.

Because of the complexity of the calculation of tax on unused leave payments on termination of Commonwealth employment, examples are not provided in this course but are covered in the Final Entitlements course.

Refer to the [Unused Leave Payments on Termination of Employment Tax Table - Pay As You Go \(PAYG\) Withholding Tax Table \(NAT 3351\)](#).

14. Points to consider when processing a LSL application

A LSL application should:

- Be approved by the Delegate;
- Specify whether LSL is to be on full-pay or half-pay, and whether it should come from a full or part-time credit;
- If agency arrangements allow, specify whether salary is to be paid in advance, and give sufficient notice for the prepayment;
- Be entered on the agency's HR System and filed according to agency procedures, including details of the LSL application and a copy of the form (checking disposal or archive schedule); and
- Resubmitted to check that the employee has actually returned to duty at the end of the LSL.

Note: Employees who are separating from the Commonwealth do not have to apply for payment in lieu of LSL: the LSL monies **must** be automatically paid, if the employee qualifies. Under Sub-sections 16(5) or 17(4) of the LSL Act they may opt, in writing, not to be paid out.

When processing the application, be mindful that:

- The period of service for LSL is calculated based on the number of completed years of service. For example, a period of service from 1.2.2000 to 15.4.2013 (13 years 2 months 15 days service) counts as 13 years' service for LSL purposes.
- The only limit on the amount of LSL that can be granted is the credit available (completed years).
- LSL is granted in calendar months (and part months). For example, if one month of LSL starts on 1 July, it will end on the last day of July; if it started on 16 March, it ends close of business 15 April. A period of approved LSL is first defined by calendar month/s then the additional part-month is counted. For example, a leave application for the period 22 April 2013 to 28 June 2013 is considered: 2 months from 22 April 2013 to 21 June 2013 and then the 7 days from 22 June 2013 to 28 June 2013 (inclusive) are expressed as part of a month ($7 \div 30 = 0.233333$), resulting in 2.2333 months being deducted from the LSL balance.
- When calculating fractions of a month, one month equals 30 days.
- The LSL credit and hourly rates of pay are rounded to the nearest 4 decimal places. For part-time calculations the average weekly hours are rounded to the nearest 2 decimal places.
- Minimum periods for which long service leave can be granted is 7 days. However, some agency agreements have minimum periods of greater than 7 days (some have 15 day minimums). Where agency agreements allow for periods of leave
- LSL is not to be granted in patterns where a period of annual leave breaks the LSL period, e. The granting of leave in such patterns would unfairly advantage employees and add to the costs and LSL liabilities of agencies.

-
- Periods of LSL include weekends and public holidays. LSL is not deducted for a weekend or public holiday where the period of LSL applied for ends on a Friday or on the day before a public holiday, subject to the minimum 7 days.
 - Separate applications for LSL where only a weekend and/or a public holiday intervenes, should not be granted.
 - Annual leave may be granted in conjunction with LSL but **not** where it breaks a period of LSL to take advantage of weekends or public holidays.
 - Payment during LSL may be at half or full pay. 3 months of LSL on half pay would result in a deduction of 1.5 months from the LSL credit.
 - Where an employee who ceases due to minimum age retirement or an employee who is retrenched has at least 1 year's service (but less than 10 years' service) **may take**, or be paid in lieu, for any pro-rata LSL.
 - Where an employee ceases due to ill-health or is invalidity retired, and has at least 1 year's service (but less than 10 years' service), they are eligible for pro-rata payment in lieu of LSL, but **not** a grant of leave.
 - An employee using part-time LSL paid at an hourly rate different to their current part-time arrangement hourly rate accrues LSL at the current applicable working rate ie. the rate in the current part-time work arrangement. For example, a part-time employee using full-time LSL accrues LSL at their current part-time rate.

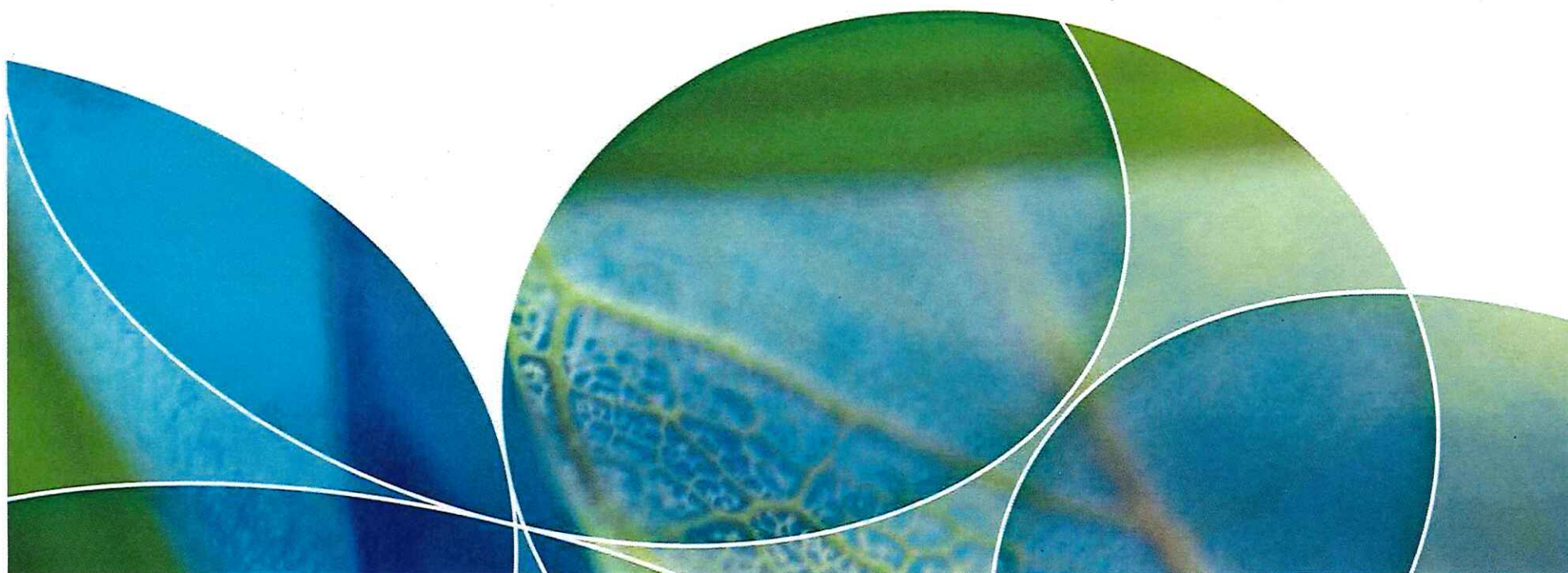


Australian Government

Australian Public Service Commission

Human Resources Operations Training Program

Recognition of prior service course





Course structure

- Overview of prior service;
- Prior service for long service leave purposes;
- Portability of personal/carer's leave;
- Prior service for paid maternity leave qualification;
- Prior service for redundancy pay purposes;
- Prior service with the ACT Public Service; and
- Other relevant points.





Learning outcomes

By the end of the course you will be able to:

- Identify the legislative provisions, within the National Workplace Relations System, that relate to recognition of prior service;
- Determine 'approved' employers for recognition of prior service for various purposes; and
- Calculate leave accrual dates, taking into account recognised prior service.





Prior service for LSL

In the Australian Public Service (APS), employees accrue leave.

Access to some leave is subject to qualifying periods. ie. an employee must work for a certain period of time before they are eligible to be granted leave.

An employee may move around various public sector agencies and / or organisations. It is not reasonable that each time they move, they lose any leave accrued or have to work a qualifying period again before accessing some types of leave.





Overview of prior service

- Why do we recognise prior service?
 - Legislative requirement; and
 - policy requirement to facilitate mobility within the APS
- The request – responsibility rests with the agency
- The decision – agency head and their delegate/s





Overview of prior service

QUICK QUIZ

Q: What is 'prior service'?

A: Prior service is previous periods of employment, in related employment (government/public sector) that may be recognised for the purposes of transporting leave entitlements between organisations.

Q: Why is it necessary?

A: The LSL Act **requires** recognition of eligible prior service. Government policy (APS Bargaining Framework) requires agencies to facilitate mobility **within the APS**. To attract employees that may already be working in the public sector by allowing them to bring leave with them.

Q: Who is responsible?

A: Under the LSL Act, there is no discretion not to recognise prior service so the obligation rests with the gaining agency.

Q: Who decides / approves?

A: The Agency Head or delegate.

Q: Can recognition be refused?

A: Not if it meets all eligible criteria in legislation / enterprise agreement (eligible service, continuity).



Prior service for long service leave (LSL)

Legal authority:

- *Long Service Leave (Commonwealth Employees) Act 1976 (LSL Act); and*
- *Long Service Leave (Commonwealth Employees) Regulations 1957 (LSL Regs).*



What is LSL?

Long Service Leave is granted to an employee after 10 years of continuous employment with the Commonwealth.

The amount of LSL granted after 10 years is 3 months.

Each year after the 10 years is reached, another 0.3 of a month is granted.

This leave is legislated by the LSL Act which applies to all employees of the APS and Commonwealth statutory bodies.





Prior service for LSL

About the 10 years' qualifying period:

An employee may move around various agencies and / or organisations and the combination of this employment may be used to qualify for LSL.

So, an employee commencing in the APS does not, necessarily, have to wait for 10 years before accruing LSL. They may have previous employment that may count toward meeting the 10 years' qualifying period.





Prior service for LSL

The key elements for determining whether prior service is to be recognised for LSL purposes are:

- Government service;
- Eligible prior service; and
- Continuity of service.



Prior service for LSL

Government service

Defined by section 10 of the LSL Act:

- Includes employment in the Commonwealth under legislation or contract of service or apprenticeship; and
- Includes employment with the Australian Federal Police.



Prior service for LSL

Eligible prior service - in accordance with section 11 of the LSL Act:

- Any previous Government employment (Commonwealth);
- Any Public Service of a State or Territory, including the former Territory of Nauru;
- Any service of an authority of a State or Territory (note that authority of a state or of a territory is defined to be one, whether incorporated or not, that was or is constituted by or under the law of a State for a public purpose or a local governing body established under a law of a State;
- The teaching service of the ACT or the Northern Territory; and
- Other relevant service, defined as;
 - Australian Defence Force service;
 - A person holding an office, or employed, under the *Reserve Bank Act 1959* or the *Commonwealth Banks Act 1959*; or
 - A person appointed or engaged by the Commonwealth (after the commencement of this Act) for employment outside Australia only.



Prior service for LSL

Continuity of (continuous) service

Section 12 of the LSL Act defines continuous service to mean period/s of qualifying service that do not have any break in employment that **exceeds 12 months**.

- There is no **discretion** to extend the 12 month period.
- The period of any break, itself, is not considered as service.
- Continuity of service is not broken by periods of leave i.e. any leave with pay, part pay or leave without pay (LWOP) however, LWOP not to count as service (NTCAS), defers the accrual date.
- All LWOP does not count as service (for LSL), unless the approving authority determines otherwise for each application. Excludes sick LWOP and Defence service LWOP.





Prior service for LSL

Example 1

An employee commences in your agency with the following service:

7.12.98 to 7.12.12

Department of Defence

7.3.13

Commences in your agency

- Continuity is not broken for the purpose of the LSL Act even though the employee was unemployed between ceasing with Defence on 7.12.12 and commencing with your agency on 7.3.13.
- *This is because the break between the two dates is 89 calendar days, well within the 12 month limit.*



Prior service for LSL

Leave during a period of employment

- If an employee takes leave, during a period of employment, it is **NOT** considered to be a break in service.
- Continuity of service is **NOT** broken by periods of leave with pay, part pay or without pay.
- Leave does not count as service and defers the accrual date of LSL.



Prior service for LSL

Example 2

7.12.03 - continuing

Department of Foreign Affairs and Trade

7.3.06 – 9.3.08

LWOP (NTCAS) to study, travel and work throughout Asia

- Continuity is not broken, for the purpose of the LSL Act, even though the employee was on LWOP NTCAS for two years from 2006 to 2008.
- The affect that this has, however, is that instead of being credited with LSL 10 years after commencement (scheduled for 7.12.13), the accrual date is deferred by the total number of calendar days of the LWOP (734 calendar days).
- The date of accrual will now be 11.12.15 (7.12.13 + 734 calendar days).



Prior service for LSL

Special circumstances when a break in service may exceed 12 months

The following circumstances allow a break greater than 12 months without affecting continuity:

- Re-engagement after invalidity retirement / ill health; and
- Vocational training after Defence Force service.





Prior service for LSL

Re-engagement after invalidity retirement

In accordance with subsection 12(7) of the LSL Act, an employee who is retired from Government Service due to invalidity, may be re-engaged in Commonwealth employment and still maintain continuity of service.

This is subject to re-engagement occurring within 12 months of date of certification that they are fit, **specifically**, for ***Commonwealth*** employment (as distinct from fitness for ***any*** employment).

Certification of fitness should, preferably, be by a Government approved medical officer.





Prior service for LSL

Re-engagement after resignation due to ill health

Sub-section 12(8) of the LSL Act – resignation due to ill health.

Continuity of service is subject to:

- The delegate being satisfied that the employee's resignation was due to ill health;
- That they remained unemployed, because of ill health, for a period of time immediately after ceasing employment; and
- The employee recommencing recognised employment within 12 months of ceasing to be unemployed due to ill health.

On recommencement, they are credited with any remaining leave balances (that were not paid out) that existed at the time of resignation.





Prior service for LSL

Continuous service & re-engagement after ill health

Example 3

7.3.99 to 7.6.10	Tasmanian Public Service
8.6.10 to 8.6.12	Unemployed due to ill health
9.6.12 to 6.3.13	Private employment
7.3.13	Commenced with the Australian Public Service Commission

Continuity is not broken for the purpose of the LSL Act because the employee was unemployed because of ill health immediately after ceasing State employment and recommenced in the APS within 12 months of ceasing to be unemployed (9.6.12).

This is subject to the delegate being satisfied that the complete period of unemployment was exclusively due to ill health i.e. they were not fit to work. In most cases, the delegate would require medical evidence to support the claim.





Prior service for LSL

Continuous service & re-engagement after vocational training after Defence Force service

In accordance with sub-section 12(6) of the LSL Act, periods of full-time training under a vocational training scheme (after Defence Force service) do not break continuity of service. ie. it counts as service.

These training schemes were conducted after servicemen completed National Service or War Service eg.:

- Commonwealth Reconstruction Training Scheme;
- Korea/Malaya Training Scheme; and
- National Service Vocational Training Scheme.





Prior service for LSL

Continuous service & re-engagement after vocational training after Defence Force service

Example 4

1.2.68 to 1.2.70	National Service
2.2.70 to 2.6.70	Private employment
3.6.70 to 3.12.72	National Service Vocational Training scheme
5.3.73	Department of the Treasury

- *As the break in service between 1.2.70 and 5.3.73, excluding the period of full-time training under the National Service Vocational Training Scheme, does not exceed 12 months, continuity of service has been maintained.*
- *2.2.70 – 4.3.73 (break between ceasing National Service and commencing with Treasury) is 1126 calendar days.*
- *National Service Vocational Training period of service (915 calendar days) will need to be deducted from the total break:*
- *1126 (total break) – 915 (training) = 211 days which is under 12 months.*



Prior service for LSL

Concurrent service

(s. 14 LSL Act)

If an employee takes LSL from an APS agency, and engages in other public employment, that other employment does **not** count as service for LSL purposes.

Because the employee is accruing LSL with the APS agency they cannot accrue double.

Where an employee has two part-time public service jobs, at the same time, the weekly hours are totalled.

However, if this is more than normal full-time hours, it is regarded as a full-time week and no more than full-time hours may be counted as service for LSL.





Prior service for LSL

Payment in lieu of LSL

If an employee took LSL, or was paid in lieu, in their eligible prior employment:

- the service is recognised for qualifying service under the LSL Act, but the actual leave credits are adjusted accordingly. ie. on commencement, they would have a balance adjusted by any LSL taken or paid in lieu and they would begin accruing immediately (not wait 10 years).

Note that some employment eligible for recognition of prior service may have attracted a salary loading in lieu of LSL. This is treated as payment in lieu for the purposes of the LSL Act.





Prior service for LSL

Payment in lieu of LSL

Example 5

7.1.03 to 6.1.13

Macquarie University (Item 6, Sch 1 LSL Regs)
Casual loading paid

7.1.13

Commenced ComSuper (ongoing full time)

- *The employee has completed 10 years' eligible service.*
- *A loading of 30% was paid by Macquarie University in lieu of all leave.*
- *On commencement with ComSuper, there will be no LSL credit as all credits are assumed to have been taken by virtue of the payment in lieu.*
- *Credits will be yearly (7 January each year) with 0.3 of a month to be credited on 7 January 2014.*





Prior service for LSL

Prior service that results in a 'negative credit'

- Some state and territory LSL legislation is more generous than the LSL Act. For example, the qualifying period is less.
- When calculating LSL credits for prior service in these circumstances, it may return a 'negative credit'. ie. the credit may be less than the employee was paid in lieu.
- If this occurs, it does not mean that the employee is in LSL debt, it just means that they have a zero balance. i.e. the negative is automatically waived and they are not liable for any debt to the Commonwealth.
- The LSL balance remains at zero until credits overtake the amount of LSL taken or paid in lieu i.e. any credits still need to be subject to a deduction of LSL taken/paid in lieu.

THE LSL ACT DOES NOT PROVIDE FOR, OR CONTEMPLATE, THE CONCEPT OF A 'NEGATIVE' CREDIT





Prior service for LSL

Establishing a LSL credit

- Periods of eligible service are added together to determine the LSL entitlement.
- Any credits resulting from recognising prior service is calculated at the rate applicable in the LSL Act.
- Any LSL taken with previous employers is deducted.
- Payments in lieu – treated as though the LSL was actually taken as leave (deducted).
- LWOP NTCAS and breaks in service defer the LSL accrual date.





Prior service for LSL

Example 6

A new employee commenced with the Australian Crime Commission on 4 April 2011 with the following periods of service:

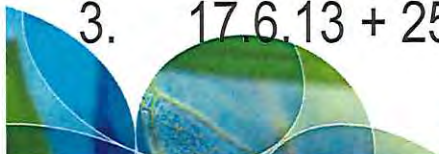
17.6.03 to 13.7.07	Victorian Inland Meat Authority
12.11.07 to 24.11.10	Agricultural College Qld
4.4.11 – continuing	Australian Crime Commission

Q: What service is acceptable for LSL purposes?

A: All prior service is acceptable for recognition for LSL purposes (Items 47 and 66, sch 1 LSL Regs).

Q: When will LSL accrue?

1. LSL scheduled to accrue on 17.6.13 (17.6.03 + 10 years);
2. Add breaks in service: (14.7.07 – 11.11.07 = 121 calendar days) and (25.11.10 – 3.4.11 = 130 calendar days) 121+130 = 251 calendar days;
3. 17.6.13 + 251 days = 23.2.14.





Prior service for LSL

Exercise 1

Ms Brown has the following service:

24.3.03 to 27.7.11	Australian National Audit Office
4.4.11 to 27.7.11	LWOP NTCAS
24.2.12 to 5.6.12	Department of Finance and Deregulation
6.6.12	Appointed to your agency

Ms Brown wants to take LSL in September 2014, when will her LSL accrue?

Scheduled accrual date: 24.3.13 (24.3.03, start date with ANAO + 10 years).

Total breaks and LWOP NTCAS:

- **LWOP NTCAS** taken while at ANAO from 4.4.11 to 27.7.11, inclusive = **115** calendar days. LWOP NTCAS (regardless of duration) does not break continuity of service).
- **Break in service** between resigning from ANAO on 27.7.11 and commencing with DoFD on 24.2.12. The break is counted from 28.7.11 (first day of break) and 23.2.12 (last day of break) inclusive = **211** calendar days. Break is less than 12 months so does not break continuity.
- **Total LWOP + breaks:** $115 + 211 = \mathbf{326}$ calendar days

Adjusted accrual date: 13.2.14

(Scheduled accrual date plus total breaks and LWOP NTCAS (24.3.13 + 326 calendar days))





Prior service for LSL

Exercise 2

Ms Green commences on 30.3.13 with the following service:

6.3.89 to 25.10.91

Coal Mines Insurance Pty Ltd

1.11.91 to 23.7.98

NSW Department of Main Roads

24.7.98 to 23.11.12

Department of Resources, Energy and Tourism

Would your agency recognise her service with Coal Mines Insurance Pty Ltd for LSL? Why or why not (include any applicable references)?

Yes, 11(2) (b) of the LSL Act – any service of an authority of a State. Coal Mines Insurance Pty Ltd listed as a State authority in the LSL Regs – Item 33 of Schedule 2 (regulation 8).





Prior service for LSL

Exercise 2 cont'd

Ms Green commences on 30.3.13 with the following service:

6.3.89 to 25.10.91	Coal Mines Insurance Pty Ltd
1.11.91 to 23.7.98	NSW Department of Main Roads
24.7.98 to 23.11.12	Department of Resources, Energy and Tourism

Would your agency recognise her service with NSW Department of Main Roads for LSL? Why or why not (include any applicable references)?

Yes, section 11 (2) of the LSL Act - any service of a State.



Prior service for LSL

Exercise 2 cont'd

Ms Green commences on 30.3.13 with the following service:

6.3.89 to 25.10.91	Coal Mines Insurance Pty Ltd
1.11.91 to 23.7.98	NSW Department of Main Roads
8.2.93 to 25.3.93	LWOP NTCAS
24.7.98 to 23.11.12	Department of Resources, Energy and Tourism

What is the accrual date for LSL?

Scheduled accrual date – 6.3.89 + 10 years = 6.3.99

LWOP NTCAS and breaks in service – 178 calendar days:

- LWOP NTCAS – 46 calendar days
- Breaks in service (26.10.91 – 30.10.91) – 6 calendar days and (24.11.12 – 29.3.13) – 126 calendar days

New accrual date: 31.8.99 (6.3.99 + 178 calendar days)

We would credit Ms Green with 3 months' LSL as at 31.8.99 and 0.3 months' LSL as at 31 August each year thereafter:

3 months + (0.3 x 13 = 3.9) = 6.9 months; or

23 years of completed service x 0.3 = 6.9 mths LSL as at 31.8.12 with a further 0.3 months to be credited on 31.8.13.





Prior service for LSL

Exercise 2 cont'd

Ms Green commences on 30.3.13 with the following service:

6.3.89 to 25.10.91	Coal Mines Insurance Pty Ltd
1.11.91 to 23.7.98	NSW Department of Main Roads
8.2.93 to 25.3.93	LWOP NTCAS
24.7.98 to 23.11.12	Department of Resources, Energy and Tourism

She was made redundant and was paid 1.95 months LSL in lieu for 6 years, 6 months service (0.3 months x 6.5 years).

Are there any considerations relating to her LSL credit at the accrual date?

As at 31 August 1999, Ms Green have had 3 months' LSL.

However, she was paid in lieu for 6 ½ years' LSL by NSW Main Roads.

Therefore, she is only entitled to a credit for 3 ½ yrs' service (10 yrs – 6 ½ yrs paid in lieu) @ 0.3 of a month per year, $3.5 \times 0.3 = 1.05$ mths on 31.8.99.

$1.05 \text{ mths} + (0.3 \times 13 = 3.9) = 4.95 \text{ mths}$; or $6.9 \text{ mths} - 1.95 = 4.95 \text{ mths' LSL}$ as at 31.8.12.

Ms Green is due for a 0.3 mth credit on 31.8.13 and each year thereafter on 31 August.





- Overview of prior service;
- Prior service for long service leave purposes;

- Other relevant points.

Any final questions?





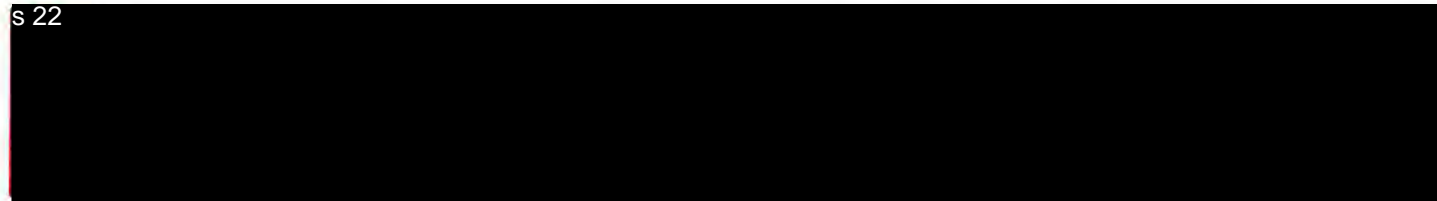
What we learnt:

You are now able to:

- Identify the legislative provisions within the National Workplace Relations System that relate to recognition of prior service;



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- Calculate leave accrual dates, taking into account recognised prior service; and
- Calculate leave credits, taking into account recognised prior service.

