



DECISION

Fair Work Act 2009

s.185 - Application for approval of a single-enterprise agreement

IP Australia & CPSU, the Community and Public Sector Union
(AG2011/2547)

IP AUSTRALIA ENTERPRISE AGREEMENT 2011-2014

Commonwealth employment

COMMISSIONER DEEGAN

CANBERRA, 26 SEPTEMBER 2011

Application for approval of the IP Australia Enterprise Agreement 2011-2014.

[1] An application has been made for approval of an enterprise agreement known as the IP Australia Enterprise Agreement 2011-2014 (Agreement). The application was made pursuant to s.185 of the *Fair Work Act 2009* (Act). The Agreement is a single-enterprise agreement.

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

[3] The CPSU, the Community and Public Sector Union, being a bargaining representative for the Agreement, has given notice under s.183 of the Act that it wants the Agreement to cover it. In accordance with s.201(2) of the Act, I note that the Agreement covers the organisation.

[4] The Agreement is approved and, in accordance with s.54 of the Act, will operate from 3 October 2011. The nominal expiry date of the Agreement is 30 June 2014.



Printed by authority of the Commonwealth Government Printer

<Price code J, AE888539, PR515007>



Australian Government
IP Australia

IP AUSTRALIA ENTERPRISE AGREEMENT 2011-2014

PATENTS

TRADE MARKS

DESIGNS

PLANT BREEDER'S RIGHTS

Robust intellectual property rights delivered efficiently

P

TM

D

PBR



TABLE OF CONTENTS

APPLICATION AND OPERATION 4

1. TITLE 4

2. PURPOSE OF AGREEMENT 4

3. OBJECTIVES 4

4. PARTIES COVERED 4

5. DURATION 4

6. CLOSED AGREEMENT 4

7. OPERATION OF THE AGREEMENT 4

8. DELEGATION 5

9. DEFINITIONS 5

10. FORMAL ACCEPTANCE OF THIS AGREEMENT 7

SALARY AND RELATED ENTITLEMENTS 8

11. SALARY DURING THE LIFE OF THE AGREEMENT 8

12. PATENT, TRADE MARK, DESIGN, AND PLANT BREEDERS RIGHTS EXAMINERS -
TRANSITIONAL ARRANGEMENTS 8

13. CLASSIFICATION STRUCTURE AND BROADBANDING 8

14. METHOD OF SALARY PAYMENT 9

15. SALARY ON ENGAGEMENT, PROMOTION OR TRANSFER 9

16. SALARY ON REDUCTION 9

17. TEMPORARY REDUCTION IN SALARY 9

18. IRREGULAR EMPLOYMENT LOADING 9

19. SUPPORTED SALARY SYSTEM 9

20. SALARY FOR SUPERANNUATION PURPOSES 10

21. SUPERANNUATION EMPLOYER CONTRIBUTION 10

22. SALARY PACKAGING 10

23. EXTRA DUTY - NON EXECUTIVE LEVEL EMPLOYEES 11

24. EXTRA DUTY – EXECUTIVE LEVEL EMPLOYEES 11

25. REASONABLE ADDITIONAL HOURS 11

26. OVERTIME AND TIME OFF IN LIEU - ELIGIBILITY 12

27. OVERTIME AND TIME OFF IN LIEU - RATES 12

28. OVERTIME AND FLEX 12

29. OVERTIME 13

30. DIRECTED OVERTIME 13

31. PROPER BREAKS 13

32. ON CALL 13

33. EMERGENCY DUTY 14

34. APPLICATION OF MINIMUM PAYMENT PROVISIONS 14

ALLOWANCES AND REIMBURSEMENTS 14

35. ADJUSTMENT OF ALLOWANCES 14

36. HIGHER DUTIES ALLOWANCE 14

37. EXECUTIVE LEVEL 2 (EL2) - ADDITIONAL RESPONSIBILITY ALLOWANCE 15

38. FIRST AID, EMERGENCY CONTROL, EQUITY AND DIVERSITY CONTACT
OFFICER AND HEALTH AND SAFETY REPRESENTATIVES ALLOWANCES 15

39. PATENT DOCUMENT TRANSLATION ALLOWANCE 16

40. MEAL ALLOWANCE 17

41. DISABILITY ALLOWANCE 17

42. REIMBURSEMENT FOR GLASSES 17

43. RELOCATION 17

44. LOSS, DAMAGE AND INDEMNITY 18

45. SMOKE FREE WORKPLACE 18

46. HEALTH AND WELLBEING ALLOWANCE 18



PRIOR SERVICE AND SEPARATION ENTITLEMENTS	18
47. PRIOR SERVICE AND ACCRUED LEAVE	18
48. SEPARATION FROM EMPLOYMENT	18
WORKPLACE PARTICIPATION, CONSULTATION AND DISPUTE RESOLUTION	19
49. FREEDOM OF ASSOCIATION	19
50. WORKPLACE REPRESENTATIVES.....	19
51. MAJOR CHANGES	20
52. GROUP LEVEL CONSULTATION	21
53. CORPORATE LEVEL CONSULTATION	21
54. OTHER DECISIONS	22
55. DISPUTE RESOLUTION	22
56. SUPPORT FOR EMPLOYEES	23
57. TERMINATION OF EMPLOYMENT	24
58. PERFORMANCE MANAGEMENT	24
59. PAY POINT ADVANCEMENT	26
60. STUDYBANK.....	26
FLEXIBLE EMPLOYMENT MODELS AND CONDITIONS	26
61. FLEXIBILITY OVERVIEW	26
62. INDIVIDUAL FLEXIBILITY ARRANGEMENT	27
63. STANDARD HOURS	28
64. BANDWIDTH	29
65. WORKING PATTERNS	29
66. ATTENDANCE	29
67. UNAUTHORISED ABSENCES	30
68. FLEXTIME SCHEME.....	30
69. FLEX BALANCE.....	30
70. FLEX LEAVE.....	30
71. WORKING ARRANGEMENTS FOR EXECUTIVE LEVEL AND OPW EMPLOYEES.....	30
72. REVERSION TO STANDARD HOURS	31
73. PART-TIME WORK	31
74. TELEWORK.....	32
LEAVE	34
75. APPROACH TO LEAVE MANAGEMENT	34
76. ANNUAL LEAVE	34
77. HALF PAY ANNUAL LEAVE	35
78. EXCESS ANNUAL LEAVE	35
79. 'CASHING OUT' ANNUAL LEAVE.....	35
80. PURCHASED LEAVE	35
81. PERSONAL/CARER'S LEAVE	36
82. PERSONAL/CARER'S LEAVE TYPES	36
83. COMPASSIONATE LEAVE.....	36
84. PERSONAL/CARER'S AND COMPASSIONATE LEAVE DOCUMENTARY REQUIREMENTS	37
85. RELATIONSHIP BETWEEN PERSONAL/CARER'S LEAVE AND OTHER CONDITIONS	37
86. PERSONAL/CARER'S LEAVE SUBSTITUTION.....	37
87. MATERNITY LEAVE	38
88. UNPAID SPECIAL MATERNITY LEAVE.....	38
89. ADOPTION/FOSTER CARER'S LEAVE	38
90. PARENTAL SUPPORT LEAVE	39
91. UNPAID PARENTAL LEAVE	39
92. LONG SERVICE LEAVE	40
93. MISCELLANEOUS LEAVE	40



94.	CULTURAL, CEREMONIAL AND NAIDOC LEAVE	40
95.	DEFENCE RESERVE LEAVE.....	41
96.	COMMUNITY SERVICE LEAVE.....	41
97.	COMMUNITY VOLUNTEER LEAVE	42
98.	CANCELLATION OF LEAVE OR RECALL FROM LEAVE	42
99.	PUBLIC HOLIDAYS	42
100.	CHRISTMAS CLOSEDOWN.....	42
101.	ATTENDANCE MANAGEMENT	43
FAMILY FRIENDLY WORKPLACE.....		43
102.	FAMILY ASSISTANCE ARRANGEMENTS	43
103.	CARER'S ROOM.....	43
104.	LACTATION BREAKS.....	43
105.	EXTRA DEPENDANT CARE COSTS	44
106.	MEETING TIMES.....	44
107.	OCCUPATIONAL HEALTH AND SAFETY	44
MANAGING EXCESS EMPLOYEES		44
108.	MANAGING EXCESS EMPLOYEES.....	44
109.	EXCESS EMPLOYEES - CONSULTATION	45
110.	VOLUNTARY REDUNDANCY	45
111.	PERIOD OF NOTICE	46
112.	SEVERANCE BENEFIT	46
113.	PERIOD OF SERVICE FOR SEVERANCE PAY PURPOSES	46
114.	RATE OF PAYMENT FOR SEVERANCE PURPOSES.....	47
115.	ACCELERATED SEPARATION.....	47
116.	RETENTION PERIODS	48
117.	INVOLUNTARY TERMINATION.....	49
 ATTACHMENTS		
	ATTACHMENT A: RATES OF PAY	50
	ATTACHMENT B: EXAMINER OF PATENTS - RATES OF PAY AND PAY POINT ADVANCEMENT PROVISIONS	51
	ATTACHMENT C: TRADE MARK, DESIGN AND PLANT BREEDERS RIGHTS EXAMINERS BROADBAND - RATES OF PAY AND PAY POINT ADVANCEMENT PROVISIONS...	53
	ATTACHMENT D - TRAINING CLASSIFICATIONS – RATES OF PAY AND ADVANCEMENT PROVISIONS.....	56
	ATTACHMENT E: ADJUSTMENT MECHANISMS - ALLOWANCES/RATES	57
	ATTACHMENT F: PRINCIPLES FOR WORKPLACE DELEGATES	58
	ATTACHMENT G: PROTOCOLS AND FACILITIES FOR BARGAINING REPRESENTATIVES	60



APPLICATION AND OPERATION

1. TITLE

1.1 This Agreement is to be known as the *IP Australia Enterprise Agreement 2011-2014*.

2. PURPOSE OF AGREEMENT

2.1 This Agreement provides the terms and conditions of employment for those IP Australia employees it covers for its duration.

3. OBJECTIVES

3.1 We agree to work together to meet and achieve IP Australia's purpose and vision through the Key Result Areas of the *IP Australia Strategic Plan 2011-2016*.

4. PARTIES COVERED

4.1 This Agreement covers:

- a) the Director General of IP Australia;
- b) employees of IP Australia, excluding the Senior Executive Service (SES); and
- c) the Community and Public Sector Union (CPSU) - but only if Fair Work Australia notes in its decision that the CPSU is covered.

5. DURATION

5.1 This Agreement comes into operation on the Commencement Date and will nominally expire on 30 June 2014.

6. CLOSED AGREEMENT

6.1 From the commencement of this Agreement, a party to the Agreement or an employee whose employment is subject to the Agreement shall not pursue further claims for terms and conditions of employment that would have effect during the period of operation of this Agreement, except where consistent with the terms of this Agreement.

7. OPERATION OF THE AGREEMENT

7.1 Management Guides to support the operation of this Agreement will be developed and maintained by Corporate Services Group. Any policy, procedure or guide referred to in this Agreement or related to the provisions of this Agreement will be readily available to all staff. These policies and guidelines provide employees and managers with a more comprehensive understanding of provisions and conditions relating to their employment and responsibilities as employees and managers. IP Australia employees are responsible for informing themselves of the provisions of this Agreement and associated policies and guides.

7.2 Any policy or guide referred to in this Agreement may be reviewed or amended at any time through the consultative processes of the Workplace Committee and will apply in the form they are in as at the time of any relevant action or decision. Updates to legislative references will not need to go through the



consultative processes of the Workplace Committee; however, members of the committee will be informed when such updates have occurred. Particular policies are identified in the relevant clause, however they are not incorporated into and do not form part of this Agreement.

7.3 The procedures for preventing and settling disputes set out in **clause 55** of this Agreement apply to a dispute relating to the application of any policy or guideline which is referred to in this Agreement.

7.4 To the extent of any inconsistency the terms of this Agreement prevail over the terms of any policies and guidelines referred to in this Agreement.

7.5 It is acknowledged that employment by IP Australia is subject to the provisions of any applicable Commonwealth law.

7.6 This agreement notes the Director General's email of 16 August 2011 to all staff dealing with the Product Quality Review System and the Performance: Achieving Together scheme. An evaluation of the Product Quality Review System will be completed by mid 2012. IP Australia will consult with staff consistent with this Agreement.

8. DELEGATION

8.1 Where the Agreement implies that approval is necessary or specifies that payment will be made or leave will be granted, but a head of power is not specified, the Agreement should be read as meaning the approval of the Director General will be obtained prior to the action occurring.

8.2 The Director General may, by instrument in writing, delegate to a person or persons any of the powers or functions under this Agreement including this power of delegation and may do so subject to conditions.

9. DEFINITIONS

"**Ad-hoc telework**" applies to employees who undertake teleworking on a one off or irregular basis over a twelve month period.

"**APS**" means the Australian Public Service.

"**bargaining representative**" means persons described in Subsections 176(1) (a) to 176(1) (d) of the *Fair Work Act 2009* who are bargaining representatives for a proposed enterprise agreement. (See **Attachment G** Protocols and Facilities for Bargaining Representatives.)

"**building activities**" means any building activities which may cause disabilities at an office location.

"**calendar month**" means 30 calendar days.

"**Commencement Date**" means the date that is seven days after approval of the Agreement by Fair Work Australia, or 1 July 2011, which ever is later.

"**Consultation**" – see **clause 54.2**.

"**Day Extender Work (DEW)**" applies to employees who work in IP Australia's usual business premises during their normal working day, then login after hours to the agency's computer network to undertake additional work from a home office.

"**Director General**" means the Director General of IP Australia.

"**disabilities**" means the detrimental effects on working conditions of office based employees caused by a variety of factors including one or generally more of the



following; dust, noise, fumes, heat, vibration, cold, wet, dirt, loss of amenities, general inconvenience.

"**documentary evidence**" for personal/carer's leave purposes comprises:

- a medical certificate from a registered health practitioner;
- a medical certificate from a certified alternative health practitioner recognised by a registered health fund (except in cases involving workers' compensation); or
- a statutory declaration made by the employee if it is not reasonably practicable for the employee to provide a medical certificate.

"**employee**" means employees employed in IP Australia under the *Public Service Act 1999* whether they are employed on a full-time, part-time, ongoing or non-ongoing basis.

"**employee representative**" may include an official or officer of a registered organisation; a workplace delegate of a registered organisation; an employee representing the views of employees in a workplace elected or chosen by employees in a workplace to represent their views to management or another person the employee wishes to represent them in the workplace.

"**FTE**" means full time equivalent employee.

"**Home Based Work (HBW)**" applies to employees who work from home within commuting distance of their usual business location – this includes the Canberra office and MPEC. This often involves spending their time shared between their home office and work office.

"**household**" means the usual occupants of the dwelling in which the employee normally resides.

"**immediate family**" includes a spouse and a former spouse of the employee and a child (including an adult child, adopted child, step child, foster child or ex nuptial child), parent, grandparent, grandchild or sibling of the employee or the employee's spouse; or for Aboriginal and Torres Strait Islander employees, a person related to the employee through traditional kinship.

"**ongoing employee**" means an employee engaged as an ongoing employee by IP Australia under the *Public Service Act 1999*.

"**non-ongoing employee**" means an employee engaged as a non-ongoing employee by IP Australia under the *Public Service Act 1999*.

"**nominal salary**" means the employee's rate of salary as set out in **Attachment A**. Participation in salary sacrifice arrangements, purchased leave options or other relevant arrangements will not affect salary for any purposes unless specifically authorised or specified.

"**Out Posted Work (OPW)**" applies to employees who work in a location that is at least 1.5 hours travel by road from Canberra.

"**spouse**" includes the husband or wife of the employee, the former spouse of the employee, the de facto spouse of the employee (meaning a person of the opposite sex to the employee who lives with the employee as the husband or wife of that person on a genuine domestic basis although not legally married to the employee), the former de facto spouse of the employee or the partner (meaning, in relation to a person who is a member of a couple, the other member of the couple including same-sex couples) of the employee.

"**staff**" has the same meaning as employee.



"Teleworking" (TW) has been defined by the Australian Government as paid work conducted away from an agency's physical offices, but requires at least periodic connection to the agency's computer network. Therefore, a teleworker is an employee who undertakes TW and includes Home Based Work (HBW), Out Posted Work (OPW), Ad-hoc telework and Day Extender Work (DEW).

"unscheduled absence" means absence from work in recognition of circumstances that can generally arise irregularly or unexpectedly, making it difficult to plan, approve or budget for in advance and which is inclusive of planned medical procedures.

For the purposes of benchmarking IP Australia's rate of unscheduled absences against the APS median the types of leave taken into account will be those taken into account in calculating in the APS median for the purposes of the Annual State of the Service Report.

"Union Workplace Delegates" means an employee representative who is a member of a Union and who has been duly appointed to be a Union Workplace Delegate for the purposes of **Attachment F** and who is included on the list provided to IP Australia in satisfaction of **clause F4**.

"we" means the persons covered by this Agreement.

10. FORMAL ACCEPTANCE OF THIS AGREEMENT

10.1 This Agreement is made under section 172 of the *Fair Work Act 2009*. By signing below, the parties to this Agreement signify their agreement to its terms.

Philip Noonan

Alistair Waters

Philip Noonan
Director General
IP Australia
47 Bowes Street
Woden ACT 2606
Employer

Alistair Waters
Deputy National President
Community and Public Sector Union
1/40 Brisbane Avenue
Barton ACT 2603
Employees' Organisation Representative

Date *20 September 2011*

Date *20/9/11*

SALARY AND RELATED ENTITLEMENTS

11. SALARY DURING THE LIFE OF THE AGREEMENT

11.1 On and from the Commencement Date of this Agreement, employees will be moved to the new pay rates set out in **Attachment A, B, C and D**. The following salary increases will be payable under this Agreement:

- a) 3.5% with effect on and from the Commencement Date;
- b) 3% with effect on and from 1 July 2012, and
- c) 2.5% with effect on and from 1 July 2013.

11.2 Salary rates for the life of this Agreement are set out in:

Attachment A: APS 1 to Executive Level 2 employees

Attachment B: Patent Examiner Classification

Attachment C: Trade Mark, Design, and Plant Breeders Rights Examiners
Broadband

Attachment D: Training Classifications

11.3 On commencement of this Agreement a one off pre tax productivity payment of \$500 will be made to all employees who are employed by IP Australia on the commencement date. The payment will be made on the pay day that the salary increase under clause 11.1 a) is paid.

12. PATENT, TRADE MARK, DESIGN, AND PLANT BREEDERS RIGHTS EXAMINERS - TRANSITIONAL ARRANGEMENTS

12.1 The transitional arrangements which apply to salaries for Patent Examiners are found in **Attachment B** to this Agreement.

12.2 The transitional arrangements which apply to salaries for Trade Mark, Design and Plant Breeders Rights Examiners are found in **Attachment C** to this Agreement.

13. CLASSIFICATION STRUCTURE AND BROADBANDING

13.1 Classifications used in IP Australia are as set out in **Attachment A**. These classifications reflect the eight-level APS structure, the IP Australia-specific Patent Examiner classification structure (**Attachment B**) and Training Classifications (**Attachment D**).

13.2 The IP Australia classification structure includes broadbands which have been made, are exercised and may be revoked under the *Public Service Classification Rules 2000*. The Trade Mark, Design and Plant Breeders Rights Broadband is at **Attachment C**.

13.3 Positions in IP Australia are classified in accordance with the IP Australia Work Level Standards. Any proposed changes to the **Work Level Standards** are subject to consultation with the Workplace Committee prior to approval by the Director General.

13.4 The **IP Australia Guide to Broadbanding** sets out the process to apply to developing and implementing broadbands in IP Australia.



14. METHOD OF SALARY PAYMENT

14.1 An employee's fortnightly salary is paid in arrears by electronic funds transfer into a financial institution of their choice within Australia. Access to the financial institution must be available to the pay processing system being used by IP Australia at the time.

14.2 The fortnightly salary is calculated using the following formula:

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

15. SALARY ON ENGAGEMENT, PROMOTION OR TRANSFER

15.1 When an employee commences in or is promoted within IP Australia, salary will normally be payable at the minimum of the pay scale applicable to the employee's classification.

15.2 The Director General may authorise payment of salary:

- a) where the experience, qualifications and skills of the employee warrant payment of salary above the minimum rate, at a higher pay point within the classification; and
- b) where their salary at their previous Commonwealth employment, exceeds the maximum rate payable by IP Australia, at the employee's higher salary until the rate payable by IP Australia meets or exceeds that amount.

15.3 Subject to **clauses 15.2 a), 15.2 b), 16 and 17** an employee will not be financially disadvantaged on promotion or transfer within IP Australia.

16. SALARY ON REDUCTION

16.1 When an employee transfers to a lower classification previous periods of service at that or a higher classification will be taken into account by the Director General in determining the pay point.

17. TEMPORARY REDUCTION IN SALARY

17.1 Where the Director General and an employee agree in writing to the employee temporarily performing work at a lower classification for a specified period of time, the Director General may determine an agreed rate of salary payable up to the maximum of the lower APS classification for the agreed period.

18. IRREGULAR EMPLOYMENT LOADING

18.1 A non-ongoing employee engaged for duties that are irregular or intermittent in nature will be paid an additional 20% of their hourly rate of pay in lieu of leave accruals (except Long Service Leave) and payment for public holidays on which they do not work.

19. SUPPORTED SALARY SYSTEM

19.1 This clause sets out the conditions which apply to employees who because of the effects of a personal disability may be eligible for a supported wage.

19.2 Eligible employees shall be paid the percentage of salary that corresponds to their assessed productive capacity, provided that the minimum amount payable shall not be less than \$75 per week or an amount determined by Fair Work Australia's Minimum Wage Panel.



19.3 Assessment of productive capacity shall be by IP Australia and a representative nominated by the employee, in consultation with the employee. The assessment will be recorded in an *Assessment Instrument*.

19.4 IP Australia will lodge agreed *Assessment Instruments* with Fair Work Australia (FWA)

19.5 Reviews of assessment of an employee's productive capacity will be conducted annually or earlier on reasonable request consistent with the Supported Wage System.

20. SALARY FOR SUPERANNUATION PURPOSES

20.1 The rate of salary for superannuation purposes is in accordance with the rules of either:

- a) the *Superannuation Act 1976* (for CSS members); or
- b) the *Superannuation Act 1990* (for PSS members).

20.2 For ordinary employer sponsored members of the Public Sector Scheme Accumulation Plan (PSSap) and for the purposes of the Trust Deed and Rules under the *Superannuation Act 2005* the Fortnightly Contribution Salary is as though the employee had been a PSS member.

21. SUPERANNUATION EMPLOYER CONTRIBUTION

21.1 Employer contributions to the PSSap will be 15.4% of the employee's fortnightly contribution salary. Employer contributions for employees in other accumulation schemes will be at the same rate as for employees in the PSSap. Employer contributions will not be reduced by any other contributions made through salary sacrifice arrangements. This clause does not apply where a superannuation fund cannot accept employer superannuation contributions (e.g. unable to accept contributions for people aged over 75).

21.2 IP Australia may limit superannuation choice to funds which:

- a) are complying and registered superannuation funds; and
- b) make satisfactory arrangements for the acceptance of payments from IP Australia and for information transfer between IP Australia's payroll and the fund.

22. SALARY PACKAGING

22.1 Salary packaging on a salary sacrifice basis is available to all employees. The arrangements for salary packaging are found in the *IP Australia Guide to Salary Packaging*.

22.2 While IP Australia will meet reasonable, internal administrative costs, any costs directly associated with salary packaging must be met by the employee.

22.3 Any money owed to IP Australia will be deducted from salary before the employee leaves IP Australia.

22.4 Where the employee takes up the option of salary packaging, the employee's salary for the purposes of superannuation, severance and termination payments and any other purpose, will be determined as if the salary sacrifice arrangements had not been entered into.



23. EXTRA DUTY - NON EXECUTIVE LEVEL EMPLOYEES

23.1 IP Australia is committed to maintaining both hours and patterns of normal duty which balance employees' work and personal life and take into account occupational health and safety considerations. Where employees are required to perform extra duty or remain contactable after hours they will be entitled to payment in recognition of the additional demands placed on them to meet operational requirements. Employees who are required to perform extra duty in conjunction with normal duty will be provided with appropriate breaks for rest and/or meals.

23. Wherever possible, the Director General's written authorisation should be obtained prior to the extra duty being worked. However, if circumstances do not permit this, the extra duty must be retrospectively approved in writing.

24. EXTRA DUTY – EXECUTIVE LEVEL EMPLOYEES

24.1 Executive Level employees and equivalents are not generally entitled to payment for extra duty. Their remuneration recognises the additional demands which may be placed upon them. Employees at these levels are generally required to hold themselves in some degree of readiness for recall to duty. However, the Director General may approve payment for on call and/or overtime or may approve Time Off in Lieu (TOIL) to employees at the Executive or equivalent levels where exceptional circumstances warrant such action. Any such approval is subject to review and variation, and entitlements will be as provided by **clauses 26, 27 and 32**.

24.2 Where an extra duty payment is approved for Executive Level employees the annual salary used in the calculation of the overtime payment is the relevant Executive Level salary.

25. REASONABLE ADDITIONAL HOURS

25.1 An employee may refuse to work extra hours, overtime or directed overtime where such extra hours are unreasonable. For determining whether extra hours are reasonable or unreasonable, the following will be taken into account:

- a) any risk to employee health and safety from working the additional hours;
- b) the employee's personal circumstances including any family responsibilities;
- c) the needs of the workplace or enterprise in which the employee is employed;
- d) whether the employee is entitled to receive overtime payments, penalty rates or other compensation for, or a level of remuneration that reflects an expectation of working additional hours;
- e) any notice given by the employer of any request or requirement to work the additional hours;
- f) any notice given by the employee of his or her intention to refuse to work the additional hours;
- g) the usual patterns of work in the industry, or the part of an industry, in which the employee works;
- h) the nature of the employee's role and the employee's level of responsibility;
- i) whether the additional hours are in accordance with **clause 71.2**; and
- j) any other relevant matter.



26. OVERTIME AND TIME OFF IN LIEU - ELIGIBILITY

26.1 Overtime rates are payable for work performed at the authorisation, or at the direction of, management in the following circumstances:

- a) for work performed on Monday to Friday before 7.00am and/or after 7.00pm and/or after an employee has worked 7 hours 21 minutes on that day;
- b) for work performed on Monday to Friday between 7.00am and 8.30am where staff worked before 7.00am on that day;
- c) for work performed on Monday to Friday between 4.51pm and 7.00pm when the staff member worked after 7.00pm on that day;
- d) for work performed on a Saturday, Sunday or public holiday;
- e) for work performed beyond the agreed hours of part time employees; and
- f) where the Director General approves the payment of overtime in circumstances other than those listed above at (a) – (e).

27. OVERTIME AND TIME OFF IN LIEU - RATES

27.1 Overtime rates are as follows:

- a) **Monday to Saturday:** Time and a half
- b) **Sunday:** Double time
- c) **Public Holidays:** Time and a half in addition to single time payment for the day (Mon to Fri Standard Hours)
- d) **Public Holidays:** Double time and a half (Sat, Sun and outside Standard Hours)

27.2 If overtime is worked over midnight and a higher rate of overtime applies on one of the days, the minimum payment will be calculated at the higher rate.

27.3 The hourly rate for overtime payment will be ascertained by applying the following formulas:

- a) **Time and a half rate:**
 - i. $\text{Annual Salary}/313 \times 6/36.75 \times 3/2$
- b) **Double time rate:**
 - ii. $\text{Annual salary}/313 \times 6/36.75 \times 2/1$
- c) **Double time and a half rate:**
 - iii. $\text{Annual Salary}/313 \times 6/36.75 \times 5/2$

27.4 See also **clause 40** for payment of meal allowance during periods of paid overtime.

28. OVERTIME AND FLEX

28.1 Employees working overtime who have a flex debit in excess of ten hours on the day the overtime is worked will not be eligible for overtime payment until and unless the flex debit has been reduced to ten hours or less. Such debits are to be reduced by the period of overtime worked with the reduction being calculated at the applicable overtime rate.

28.2 All eligible employees working overtime who do not have a flex debit in excess of ten hours on the day the overtime is worked have the option to take their overtime entitlement as time-off in lieu calculated at the applicable overtime rate. Where time off in lieu of payment has been agreed and employees have not



been granted that time off within four weeks (or another agreed period) due to operational requirements, payment of the original overtime entitlement may be made.

29. OVERTIME

29.1 Overtime occurs when an employee is authorised to perform extra duty outside their normal hours and has some discretion as to when they perform that extra duty. The timing should be agreed prior to the overtime being worked.

29.2 Regardless of whether the ordinary overtime is continuous or not continuous with the employee's normal hours of work, an employee will be eligible for payment at the relevant rate for the hours worked. In determining whether an overtime attendance is or is not continuous with ordinary hours, or is or is not separate from other duty, meal periods will be disregarded.

30. DIRECTED OVERTIME

30.1 Directed overtime refers to the situation where an employee is notified during their normal hours of work that they are required to perform extra duty with no discretion as to when they perform that extra duty. Any such directed overtime is subject to the employee's rights pursuant to **clause 25**.

30.2 If the directed overtime is continuous with the employee's normal hours of work an employee will be eligible for payment at the relevant rate for the hours worked. In determining whether an overtime attendance is or is not continuous with ordinary hours, or is or is not separate from other duty, meal periods will be disregarded.

30.3 If the directed overtime is not continuous with the employee's normal hours of work, the minimum period of payment will be four hours at the relevant overtime rate.

30.4 The minimum period for payment in **clause 30.3** does not apply to overtime performed while on call (**clause 32**) or to emergency duty (**clause 33**).

31. PROPER BREAKS

31.1 An employee who has worked extra duty may be unable to have a proper break before recommencing duty. A proper break is eight hours plus reasonable traveling time between finishing the overtime duty and recommencing duty. If such a situation does occur the employee should absent themselves from duty without any loss of salary or flextime until the break is taken. In exceptional circumstances only, the employee may be directed to recommence duty before the break has been taken. The employee will then be paid salary at the rate of double time until a proper break has been taken. This clause does not apply to employees receiving on call allowance (**clause 32**) or employees on emergency duty (**clause 33**).

32. ON CALL

32.1 The Director General may direct an ongoing employee to remain contactable and available to perform extra duty outside their normal hours of work. Employees so directed will receive an on call allowance of \$51.73 per day. Employees on call on a Public Holiday will receive double this amount.



32.2 If an employee is required to perform duty during the period they are on call, the following minimum overtime payments will apply:

- a) one hour at the relevant rate where the employee does not return to their workplace; and
- b) three hours at the relevant rate where the employee returns to their workplace.

33. EMERGENCY DUTY

33.1 When an employee is unexpectedly required to return to duty in an emergency or unanticipated situation (that is, they are not on call) the employee will be paid at one and a half times the relevant rate plus reasonable travel time from their residence to their place of duty and return. Payment will be for a minimum of three hours. When an employee is unexpectedly required to return to duty in an emergency situation the employee may claim reimbursement for expenses incurred because of the recall. For EL employees refer to **clause 24**.

34. APPLICATION OF MINIMUM PAYMENT PROVISIONS

34.1 **Clause 30** (Directed Overtime), **clause 32** (On Call) and **clause 33** (Emergency Duty) contain minimum payment provisions. In all cases, where more than one attendance is involved, the employee will receive the lesser of:

- a) payment in accordance with the minimum payment provisions; or
- b) payment as if the extra duty was continuous from the commencement of the first attendance to the cessation of the last attendance.

34.2 The reference to attendance also applies to employees performing overtime while on call where the employee does not return to their workplace.

ALLOWANCES AND REIMBURSEMENTS

35. ADJUSTMENT OF ALLOWANCES

35.1 Except as specified in this Agreement allowance rates subject to update during the life of this Agreement will be adjusted as indicated in **Attachment E**.

36. HIGHER DUTIES ALLOWANCE

36.1 An employee may be directed to perform duties at a higher classification level for a specified period of time. Higher duties allowance is payable where the period of direction exceeds two weeks.

36.2 An employee who is assigned to perform all the duties of a higher classification will generally be paid at the minimum salary point for the higher classification unless the Director General determines otherwise.

36.3 The provisions of this Agreement in relation to pay point advancement (**clause 59**) also apply in determining pay point advancement for employees on higher duties. The qualifying period of twelve months for pay point advancement can be met by continuous higher duties or broken periods amounting to twelve months over a twenty-four-month period. Pay point advancement achieved in accordance with these provisions is retained for further periods of higher duties, provided that there is not a two-year break in between periods of paid higher duties. Where a two-year break occurs the employee reverts to the minimum pay point in the higher duties salary range.



36.4 Higher duties allowance is included in salary for extra duty and may count as salary for superannuation purposes in accordance with the relevant legislation.

36.5 The higher duties allowance provisions of this Agreement do not apply within a broadband.

36.6 Where a position is available for permanent filling it cannot be staffed on a higher duties arrangement for periods in excess of 12 months either continuously or cumulatively. The Director General may approve extensions of this period in exceptional circumstances.

36.7 Selection of employees to undertake higher duties for periods of three months or more will be based on merit. The extent of any merit selection process will depend on the duration of the period of higher duties. It is expected that managers will use an expression of interest process, wherever practicable, to ensure the strongest field of candidates.

36.8 Where it is necessary to fill a position for periods of less than three months, managers will consider the claims of all available employees in the section/subsection who are at or below the classification level of the duties to be performed.

36.9 Details of administration of higher duties allowance are set out in the *IP Australia Guide to Allowances*.

37. EXECUTIVE LEVEL 2 (EL2) - ADDITIONAL RESPONSIBILITY ALLOWANCE

37.1 EL2 employees whose duties involve supervision of one or more other EL2 employees will receive an allowance of \$3,500 per annum paid on a fortnightly basis.

37.2 This allowance is not included in salary for overtime but does count as salary for superannuation purposes or any achievement bonus payments

37.3 Payment of the allowance is continued during periods of paid leave. Where leave is on reduced pay or without pay the allowance is proportionally reduced or withdrawn.

37.4 Payment of the allowance will be discontinued for any period of acting in the Senior Executive Service (SES) which attracts additional remuneration in excess of the amount of the allowance.

38. FIRST AID, EMERGENCY CONTROL, EQUITY AND DIVERSITY CONTACT OFFICER AND HEALTH AND SAFETY REPRESENTATIVES ALLOWANCES

38.1 Where the Director General is satisfied that an employee:

- a) possesses a current first aid qualification and continuing ability with that qualification to be a First Aid Officer and the employee has first aid responsibilities and agrees to discharge those responsibilities in respect of all other employees; or
- b) has current Emergency Control Officer training and continuing ability to be an Emergency Control Officer and the employee has emergency control responsibilities and agrees to discharge those responsibilities in respect of all other employees; or
- c) has been appointed as an Equity and Diversity Contact Officer, having completed the training course specific to that role and agrees to discharge those responsibilities in respect of all other employees; or



- d) is duly elected as a Health and Safety Representative or a Deputy Health and Safety Representative in accordance with the relevant occupational health and safety legislation having completed the training course specific to that role;

the employee will be paid an allowance of \$560 per annum to be paid fortnightly.

38.2 An employee will be appointed as either, a First Aid Officer, Emergency Control Officer, Equity and Diversity Contact Officer, or Health and Safety Representative for a period set in accordance with applicable policy after the positions have been advertised and nominations sought from interested employees. The terms for these positions will be staggered to avoid compromising the level of service to the agency and its employees. Where more than one nomination for a position of First Aid Officer or Emergency Control Officer is received, a simple election process will be held. Where more than one nomination for a position of Equity and Diversity Contact Officer is received appointment will be through a merit process. Nothing in this clause will prevent an employee from being re-appointed for further terms on completion of a nomination process.

38.3 As First Aid Officers and Emergency Control Officers have specific and differing responsibilities in responding to emergency situations, an employee may only hold one of these positions at any one time. Employees, who work part-time or are on a Teleworking arrangement, will be ineligible for appointment to the positions of First Aid Officer or Emergency Control Officer. Generally, a Health and Safety Representative or Deputy Health and Safety Representative may not also undertake the role of either First Aid Officer or Emergency Control Officer. However, it is acknowledged that there may be circumstances when the delegate may approve an employee undertaking the role of Health and Safety Representative or Deputy Health and Safety Representative and one of the other roles. If undertaking two roles, the employee will be paid the relevant allowance for each role.

38.4 These allowances are not included in salary for overtime, penalty payments or any productivity bonus payments but do count as salary for superannuation purposes.

38.5 Payment of these allowances is continued during paid leave for periods up to three months except for long service leave where payment is continued as prescribed by the *Long Service Leave Regulations*. Where leave is on reduced pay or without pay, the allowance is proportionally reduced or withdrawn.

39. PATENT DOCUMENT TRANSLATION ALLOWANCE

39.1 IP Australia must maintain specified minimum language capabilities under the terms of the agreement between the Australian Government and the International Bureau of the World Intellectual Property Organisation designating IP Australia as a patent International Searching Authority and International Preliminary Examination Authority. IP Australia currently maintains this capability through the payment of a Patent Document Translation Allowance to selected, competent Patent Examiners or Senior Patent Examiners.

39.2 A Patent Examiner or Senior Patent Examiner who has been directed in writing by the Commissioner of Patents to translate disclosures from French, German or other languages as required by IP Australia in its capacity as an International Searching Authority will be paid an annual allowance at the rate of \$821 while the direction continues in force.

39.3 This allowance does not count as salary for overtime or on call duty but does count as salary for superannuation purposes.



39.4 Payment of the allowance is continued during periods of paid leave. Where leave is on reduced pay or without pay the allowance is proportionally reduced or withdrawn.

39.5 The allowance is not payable beyond three months if a Patent Examiner or Senior Patent Examiner temporarily moves into a position not involving patent examination.

39.6 Further detail on administration of this allowance can be found in the *IP Australia Guide to Allowances*.

40. MEAL ALLOWANCE

40.1 If employees are required to work extra duty and it has been more than five hours since their last meal break, they will be required to take a meal break of a minimum of 30 minutes and a maximum of 60 minutes. Provided employees work beyond the meal period and take a meal break they will be paid an allowance of \$26.45. Payment will be made through the salary system.

40.2 The meal period means the following periods:

- a) 7.00am to 9.00am;
- b) 12 noon to 2.00pm;
- c) 6.00pm to 7.00pm; and
- d) Midnight to 1.00am.

40.3 Meal allowance is not payable to employees working on a teleworking arrangement.

41. DISABILITY ALLOWANCE

41.1 Where disabilities associated with building activities exist at a particular office location due to unavoidable or other particular circumstance the Director General and the affected employees (and, where they choose, their representatives) will negotiate without delay, on the payment of an appropriate disability allowance.

41.2 The *IP Australia Guide to Allowances* sets out in more detail the appropriate arrangements for managing this issue.

42. REIMBURSEMENT FOR GLASSES

42.1 An employee whose job involves significant screen based work may be eligible for reimbursement of the reasonable cost of a pair of glasses in accordance with the *IP Australia Guide to Allowances*. The reasonable cost for the purposes of this Agreement is \$228.

43. RELOCATION

43.1 The Director General may approve payment of reasonable costs to employees who relocate on joining IP Australia or who are required by IP Australia to move from one locality to another for a minimum period of 13 weeks.

43.2 Relocation entitlements are to be assessed in accordance with the *IP Australia Guide to Allowances* and *IP Australia Guide to Relocation*.



44. LOSS, DAMAGE AND INDEMNITY

44.1 In certain circumstances, the Director General 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 in accordance with the *IP Australia Guide to Allowances*.

45. SMOKE FREE WORKPLACE

45.1 IP Australia is a smoke free work place and does not permit smoking during work hours. During the life of this Agreement IP Australia will continue to provide support for employees to quit smoking.

46. HEALTH AND WELLBEING ALLOWANCE

46.1 The Health and Wellbeing Allowance will be an annual payment available to ongoing and non-ongoing employees to encourage their participation in health related lifestyle activities. The allowance is available to:

- i. ongoing employees
- ii. non-ongoing employees with at least 12 months continuous service

46.2 The allowance is \$150 for Canberra employees and \$200 for those employees at MPEC and on OPW arrangements.

46.3 The allowance is payable on a financial year basis and is for expenses incurred in that year. Payment is made on production of receipts for health related lifestyle expenses and is administered in accordance with the *IP Australia Guide to Allowances*.

PRIOR SERVICE AND SEPARATION ENTITLEMENTS

47. PRIOR SERVICE AND ACCRUED LEAVE

47.1 Where a staff member joins IP Australia as an ongoing or non ongoing employee on or after the Commencement Date from an employer staffed under the *Public Service Act 1999*, the *Parliamentary Service Act 1999* or the ACT Government Service, accrued annual leave and personal/carer's leave (however described) will be transferred provided there is no break in continuity of service.

47.2 The entitlement to these accrued credits of leave and any future entitlements to annual leave and personal leave are those prevailing in IP Australia.

48. SEPARATION FROM EMPLOYMENT

48.1 The following clauses apply to an IP Australia employee covered by this Agreement who terminates employment with IP Australia and separates from APS employment:

- a) **EL2 Additional Responsibility Allowance.** The EL2 additional responsibility allowance is included as salary for payment on separation.
- b) **First Aid, Emergency Control Officer, Equity and Diversity Contact Officer, and Health and Safety Representative Allowances.** The first aid, emergency control officer, equity and diversity contact officer and health and safety representative allowances are included as salary for payment on separation.



- c) **Higher Duties Allowance.** Where an employee is on higher duties on the date of termination of employment the following will apply:
 - i. where the employee had been performing higher duties for a continuous period of at least twelve months prior to separation, payments for separation;
 - ii. in other cases, payments will be based on the higher salary for the duration of the period of the higher duties direction.
- d) **Patent Document Translation Allowance.** The patent document translation allowance is included as salary for payment on separation.
- e) **Flextime.** Employees should aim to have a zero flextime balance on the date of separation. Up to 10 hours flextime credit shall be paid out on separation at the single time rate. Any excess credits above 10 hours are forfeited on separation. Flex debits on separation are deducted from final monies.
- f) **Annual and Long Service Leave.** Annual leave credits will be paid in lieu on separation. Long service leave will be paid in lieu on separation in accordance with the *Long Service Leave (Commonwealth Employees) Act 1976*
- g) **Death of Employee.** When an employee dies, or the Director General determines that an employee will be presumed to have died on a particular date, payment will be made to the dependants or partner or the legal personal representative of the former employee of an amount that would have been paid if the employee resigned or retired. Long service leave will be paid out in accordance with the *Long Service Leave (Commonwealth Employees) Act 1976* and any monies owing to the Commonwealth as a result of advanced annual leave salary will be waived.

WORKPLACE PARTICIPATION, CONSULTATION AND DISPUTE RESOLUTION

49. FREEDOM OF ASSOCIATION

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

50. WORKPLACE REPRESENTATIVES

50.1 In recognition of their representational responsibilities, employee representatives who are employees of IP Australia will be provided with appropriate support having regard to operational and resource requirements associated with the provision of such facilities. Such support for employee representatives who are employees of IP Australia will include:

- a) permitting them to conduct representational activities at times, and for periods of time, during their working hours which are, having regard to IP Australia's operational requirements, reasonable in all the circumstances;



- b) recognition of the corporate contribution of such activities through the Performance Conversation process;
- c) appropriate skills development through the Performance Conversation process; and
- d) access to office equipment including computer, e-mail, photocopying and facsimile facilities.

50.2 Participation in the consultative process will be encouraged and will not prejudice the careers of the participants.

50.3 Consultation will be undertaken through informal and formal processes as described in the *IP Australia Guide to Workplace Participation*. Consultation will be consistent with the requirements of **clause 54.2**.

50.4 **Workplace Delegates.** The role of Union Workplace Delegates is to be respected and facilitated in accordance with the Principles for Workplace Delegates set out at **Attachment F**.

51. MAJOR CHANGES

51.1 **Clause 51** applies where a decision is made to introduce major changes in a work area that are likely to have **significant effects** on employees, other than where provision is already made elsewhere in this enterprise agreement regarding a specific major change.

51.2 Where a definite decision is made to introduce major changes in program, organisation, structure or technology that are likely to have significant effects on employees, the Director General must notify the employees who are likely to be affected by the proposed changes and their representatives, if any.

51.3 **Significant effects** include:

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

51.4 **Agency Head to discuss major changes.** The Director General must discuss with the employees affected and their representatives, if any, the introduction of the changes referred to in **clause 51.2**, the effects the changes are likely to have on employees and measures to avert or mitigate the adverse effects of such changes on employees and must give prompt consideration to matters raised by the employees and/or their representatives in relation to the changes.

51.5 The discussions must commence as early as practicable after a definite decision has been made to make the changes referred to in **clause 51.3**.

51.6 For the purposes of such discussion, the employees concerned and their representatives, if any, are to be provided in writing all relevant information about the changes including the nature of the changes proposed, the expected effects of the changes on employees and any other matters likely to affect employees. The



Director General is not required to disclose confidential or commercially sensitive information to the employees.

*Note: The provisions of **clause 51** are based on the Model Consultation Term and need to be considered in conjunction with other EA provisions.*

52. GROUP LEVEL CONSULTATION

52.1 We recognise the value of consultation at the Group level in achieving the IP Australia commitment to consultation.

52.2 The objective of the Group consultative mechanism is to provide opportunity for sharing information and involving employees in workplace issues affecting them at the Group level. This provides employees with a mechanism to raise issues related to the Group. Where appropriate, issues will be referred to the IP Australia Workplace Committee (the Workplace Committee).

52.3 Within one month of a new Group commencing operation, the Group's General Manager and its employees will determine and set up an appropriate consultative mechanism and advise the Workplace Committee of the agreed arrangement.

52.4 We recognise that consultative mechanisms will vary between Groups and that it is a matter for Group General Managers and their employees to determine the appropriate mechanism for their Group. Where requested by employees of the Group, employee representatives may be involved in the process of determining the appropriate mechanism.

52.5 The following parameters/minimum requirements will apply to each Group consultative mechanism:

- a) the Group General Manager will chair the consultative forum;
- b) employees from the Group will be involved in the forum in a manner to be determined within each Group, recognising that these employees can elect to be represented by an employee representative;
- c) meetings should be held at least once a quarter and at least two weeks prior to the Workplace Committee meeting;
- d) the Group General Manager will submit a report to each meeting of the Workplace Committee on Group consultation forum meetings, including a summary of issues raised and outcomes;
- e) all employees should have the opportunity to raise or comment on issues either personally or, where they choose, through their representatives at meetings;
- f) where voting for employee representatives is required, the voting procedures for the Workplace Committee will be followed; and
- g) the Workplace Committee should be advised of any change made to the consultative mechanism of the Group.

53. CORPORATE LEVEL CONSULTATION

53.1 Consultation at the corporate level will be achieved through the IP Australia Workplace Committee made up of a member of the Executive (nominated by the Director General), appropriate senior IP Australia representatives and employee representatives.

53.2 In addition to the consultation provisions outlined in **clause 51** (Major Changes), the Workplace Committee will be consulted on matters of a corporate



nature relating to employment matters concerning IP Australia and its employees. This includes:

- a) issues surrounding the implementation of this Agreement;
- b) organisational, personnel and employment policies and practices, including the relevant Chief Executive's Instructions and the Customer Service Charter; and
- c) proposed changes to organisational structures, process and systems that would have major employment implications, but only where a definite decision has not yet been made (otherwise **clause 51** applies).

53.3 In addition to this general list there are clauses in this Agreement in which the Workplace Committee is given a specific role in relation to the subject matter of that clause.

53.4 The *IP Australia Guide to Workplace Participation* sets out how the Committee operates. The Guide can be varied by mutual agreement as required.

53.5 The responsibilities and duties of employee representatives on the Workplace Committee will be outlined in the *IP Australia Guide to Workplace Participation*.

54. OTHER DECISIONS

54.1 This clause applies except where **clause 51** (Major Changes) applies. In making other decisions which affect employees, whether in relation to matters covered by this Agreement or in relation to broader matters, IP Australia is committed to consulting with affected employees with the aim of achieving consensus wherever possible.

54.2 This means:

- providing relevant information to employees and, where they choose, their representatives about impending changes, decisions, reviews or other issues that affect them so that they are able to meaningfully participate in debate; and, for this to be effective, the participation must be contributing to the decision-making process not only in appearance, but in fact;
- in making decisions, taking account of the views expressed by employees and, where they choose, their representatives; and
- explaining decisions that have been made, including how the views expressed by employees and, where they choose, their representatives were taken into-account.

55. DISPUTE RESOLUTION

55.1 If a dispute relates to a matter under this agreement, or the NES, the parties to the dispute must first attempt to resolve the matter at the workplace level by discussions between the employee or employees concerned and the relevant supervisor/manager.

55.2 If a resolution to the dispute has not been achieved after discussions have been held in accordance with clause 1, the parties to the dispute will endeavour to resolve the dispute in a timely manner either through discussions with more senior levels of management where appropriate or through alternative dispute resolution methods.



55.3 If discussions at the workplace level do not resolve the dispute, and all appropriate steps have been taken in accordance with clauses 1 and 2, a party to the dispute may refer the matter to Fair Work Australia.

55.4 Fair Work Australia may deal with the dispute in 2 stages:

- a) Fair Work Australia 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 Fair Work Australia is unable to resolve the dispute at the first stage, Fair Work Australia may then:
 - (i) arbitrate the dispute; and
 - (ii) make a determination that is binding on the parties.

Note: If Fair Work Australia arbitrates the dispute, it may also use the powers that are available to it under the Act. A decision that Fair Work Australia makes when arbitrating a dispute is a decision for the purpose of Div 3 of Part 5.1 of the Fair Work Act 2009. Therefore, an appeal may be made against the decision.

55.5 The agency or an employee who is a party to the dispute may appoint another person, organisation or association to accompany and/or represent them for the purposes of this term.

55.6 Resolution of disputes is to occur in good faith by following the same principles as the good faith bargaining requirements at section 228 of the Fair Work Act 2009.

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

- a) an employee must continue to perform his or her work as he or she would normally unless he or she has a reasonable concern about an imminent risk to his or her health or safety; and
- b) an employee must comply with a direction given by the Agency Head 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.

55.8 The parties to the dispute agree to be bound by a decision made by Fair Work Australia in accordance with this clause.

56. SUPPORT FOR EMPLOYEES

56.1 Affected employees and their representative will be given reasonable time off without deduction of salary for resolving matters arising under these dispute resolution processes.



57. TERMINATION OF EMPLOYMENT

57.1 The sole and exhaustive rights and remedies of an employee in relation to termination of employment are those that the employee enjoys under:

- a) Parts 3-1 and 3-2 of the *Fair Work Act 2009*;
- b) other Commonwealth laws (including the Constitution); and
- c) common law.

57.2 Termination of, or a decision to terminate employment, cannot be reviewed under the dispute prevention and settlement procedures addressed in **clause 55** of this Agreement.

57.3 Nothing in this Agreement prevents the Director General from terminating the employment of an employee for serious misconduct, without further notice or payment in lieu, in accordance with section 123 of the *Fair Work Act 2009*, subject to compliance with the procedures established by the Director General for determining whether an employee has breached the Code of Conduct under section 15 of the *Public Service Act 1999*.

58. PERFORMANCE MANAGEMENT

58.1 Effective performance management is an essential element in delivering IP Australia's purpose of supporting the Australian community with a robust and dynamic intellectual property system. To fulfill this purpose IP Australia needs to continuously improve the way it manages its work, the way its employees work together and the way its employees work with others.

58.2 All IP Australia employees are to participate in performance management arrangements. There are two performance management schemes in place which set out the assessment, review, pay point advancement, and managing underperformance processes that apply to IP Australia employees:

- a) **Performance: Achieving Together** applies to APS 1 to Executive Level 1 (EL1) employees and sets out a flexible framework to suit our changing needs and commitment to an achievement culture.
- b) **EL2 Performance Management Guidelines** apply to all Executive Level 2 (EL2) employees and set out unique arrangements in recognition of the strategic leadership role they play in IP Australia and aims to foster strong leadership and an achievement culture.

Performance: Achieving Together and the **EL2 Performance Management Guidelines** are subject to variation by agreement with the Workplace Committee.

58.3 **Performance Management Cycle.** The performance management cycle will operate from 1 August to 31 July each year for EL2 employees and from 1 September to 31 August for other employees. Assessment of performance is for the previous financial year (1 July – 30 June).

58.4 **Performance Management Requirements.** When developing a performance management agreement the following principles apply:

- a) The agreement is jointly developed and agreed to by the employee and their supervisor.
- b) Performance measures shall be developed in accordance with SMARTA (Specific, Measurable, Achievable, Realistic, Time bound and Agreed) principles. **Attachment A** of **Performance: Achieving Together** and **Attachment B** of the **EL2 Performance Management Guidelines** provide further details of the SMARTA principles.



- c) Performance measures shall not be exclusively quantitative.
- d) Meaningful performance conversations should happen throughout the year and performance shall be formally reviewed at least mid-way through and at the end of the cycle.

58.5 **Remuneration Outcomes**

(a) APS 1 – EL 1:

- i. APS 1 - EL1 employees will need to achieve a rating of Gold, Silver or Green to gain pay point/broadband advancement.
- ii. APS 1 - EL1 employees who are rated at the Orange or Red levels will not advance to the next pay point/broadband level.
- iii. All supervisory roles are subject to the voluntary feedback arrangements through the upwards feedback process as provided in ***Performance: Achieving Together***.
- iv. The rating system and outcome for staff at APS1 -EL1 is detailed in **Table 1**.

Table 1: Performance Ratings and Outcomes for APS 1–EL1 Employees

Rating	Key Message	Outcome
Gold	A sustained level of excellent performance	<ul style="list-style-type: none"> • Pay point Advancement (where not at top of range)
Silver	An impressive performance worthy of recognition and acknowledgement	<ul style="list-style-type: none"> • Pay point Advancement (where not at top of range)
Green	Making a contribution and achieving - doing a good job	<ul style="list-style-type: none"> • Pay point Advancement (where not at top of range)
Orange	A warning to address issues that are adversely affecting performance	<ul style="list-style-type: none"> • Performance improvement process
Red	A serious situation, with the need to initiate formal processes	<ul style="list-style-type: none"> • Formal review of performance

(b) EL 2:

- i. **Pay point advancement.** EL2 employees will need to achieve a rating of Superior or Effective for pay point advancement.
- ii. **Achievement Bonus.** Eligibility for payment of an achievement bonus for EL 2 employees requires a rating in accordance with the relevant performance management assessment.
- iii. **360 Degree Feedback.** Formal 360 degree feedback may be made available for EL2 employees with the agreement of their General Manager.
- iv. The rating system and outcomes for **EL2** staff is set out in **Table 2**. More detail on the administration of the achievement bonuses is provided through the ***EL2 Performance Management Guidelines***.



Table 2: Performance Ratings and Outcomes for EL2 Employees

Final Assessment Rating	Definition	Pay Outcome
SUPERIOR	Achieving: <ul style="list-style-type: none"> a total score of 13 or higher out of 20, and a score of 6 or better for both Business Outcomes <u>and</u> Leadership Outcomes 	<ul style="list-style-type: none"> Pay point advancement under clause 59 (where not at top of range) Achievement bonus of up to 10% of salary: <ul style="list-style-type: none"> greater than 18 = 10% of base annual salary 15 to 18 = 5% of base annual salary 13 but less than 15 = 3% of base annual salary
EFFECTIVE	Achieving: <ul style="list-style-type: none"> a total score of 10 or more out of 20, and a score of 5 or better for both Business Outcomes <u>and</u> Leadership Outcomes 	<ul style="list-style-type: none"> Pay point advancement under clause 59 (where not at top of range). No achievement bonus
REVIEW	Achieving: <ul style="list-style-type: none"> a total score of less than 10 out of 20 or a score of less than 5 for either Business Outcomes <u>or</u> Leadership Outcomes 	<ul style="list-style-type: none"> No pay point advancement under clause 59 (where applicable) until effective performance is achieved No achievement bonus

59. PAY POINT ADVANCEMENT

59.1 An employee may be entitled to receive pay point advancement and progress one pay point within the pay scale for the employee's classification after 12 months of paid service at a particular IP Australia pay point.

59.2 Pay point advancement is conditional upon achieving the relevant performance assessment rating applicable to the employee's classification as noted in **Table 1** and **Table 2**, as appropriate.

59.3 Pay point advancement for employees on higher duties is set out in **clause 36** and the **Guide to Allowances**.

60. STUDYBANK

60.1 The **IP Australia Guide to Studybank** sets out the assistance available to employees to undertake formal courses of study at tertiary and higher education institutions and other vocational educational courses. Studybank applies where the study is agreed as part of a formal performance agreement and/or meets a business need and is approved by the Director General.

FLEXIBLE EMPLOYMENT MODELS AND CONDITIONS

61. FLEXIBILITY OVERVIEW

61.1 IP Australia recognises that employees value the ability to work flexibly and, in turn, this can enhance attraction and retention.



61.2 A range of options including flexible working arrangements and leave types is available to employees to help them as far as operationally practicable to balance work and personal life circumstances.

61.3 IP Australia also recognises the value of having employees with diverse backgrounds, experiences, skills and perspectives. We are committed to preventing and eliminating discrimination on the basis of race, colour, sex, sexual preference, age, physical or mental disability, marital status, personal responsibilities, employment status, pregnancy, religion, political opinion, union or non-union membership, national extraction or social origin.

61.4 **Flexible work arrangements for parents.** An employee who is a parent, or has responsibility for the care of a child under school age or a child under 18 who has a disability, may request flexible working arrangements, including part-time hours. The employee is not eligible to make this request unless they have completed at least 12 months of continuous qualifying service (the Director General may waive this requirement in exceptional circumstances).

61.5 A casual employee engaged for irregular or intermittent duties may only request flexible work arrangements if the employee:

- a) is a long term casual employee immediately before making the request; and
- b) has reasonable expectation of continuing employment on a regular and systematic basis.

Note: 'long term casual employee' is defined at section 12 of the Fair Work Act 2009.

61.6 A request made in accordance with **clause 61.4** must be in writing and set out details of the change sought and the reasons for the change. The Director General will respond in writing to the request within 21 days and will only refuse on reasonable business grounds. Where the request is refused, the response will include reasons for the refusal.

61.7 For the purposes of this clause:

- a) 'qualifying service' means service that is recognised for redundancy pay purposes;
- b) 'casual' means an employee engaged on an irregular or intermittent basis.

Note: This clause complies with section 65 of the Fair Work Act 2009, and with the APSBF recommended model term.

62. INDIVIDUAL FLEXIBILITY ARRANGEMENT

62.1 An employer and employee covered by this enterprise agreement may agree to make an individual flexibility arrangement to vary the effect of terms of the agreement if:

- a) the agreement deals with 1 or more of the following matters:
 - (i) arrangements about when work is performed;
 - (ii) overtime rates;
 - (iii) penalty rates;
 - (iv) allowances;
 - (v) remuneration; and/or
 - (vi) leave.



- b) the arrangement meets the genuine needs of the employer and employee in relation to 1 or more of the matters mentioned in paragraph (a); and
- c) the arrangement is genuinely agreed to by the employer and employee.

62.2 The employer must ensure that the terms of the individual flexibility arrangement:

- a) are about permitted matters under section 172 of the *Fair Work Act 2009*; and
- b) are not unlawful terms under section 194 of the *Fair Work Act 2009*; and
- c) results in the employee being better off overall than the employee would be if no arrangement was made.

62.3 The employer must ensure that the individual flexibility arrangement:

- a) is in writing; and
- b) includes the name of the employer and employee; and
- c) is signed by the employer and employee and if the employee is under 18 years of age, signed by a parent or guardian of the employee; and
- d) includes details of:
 - (i) the terms of the enterprise agreement that will be varied by the arrangement; and
 - (ii) how the arrangement will vary the effect of the terms; and
 - (iii) how the employee will be better off overall in relation to the terms and conditions of his or her employment as a result of the arrangement; and
- e) states the day on which the arrangement commences.

62.4 The employer must give the employee a copy of the individual flexibility arrangement within 14 days after it is agreed to.

62.5 The employer or employee may terminate the individual flexibility arrangement:

- a) by giving no more than 28 days written notice to the other party to the arrangement; or
- b) if the employer and employee agree in writing — at any time.

62.6 Further information can be found in the ***IP Australian Guide to Individual Flexibility Arrangements***. The number and purpose of arrangements established under this clause will be reported to the Workplace Committee on a quarterly basis subject to privacy legislation.

Note: Clause 62 is based on the model flexibility clause at schedule 2.2 of the Fair Work Regulations, with variations under the APSBF to the matters that may be covered by an Individual Flexibility Agreement (IFA).

63. STANDARD HOURS

63.1 Full-time employees covered by this Agreement, will have 36.75 hours per week (7 hours 21 minutes per day) as the standard ordinary hours of duty. For part-time staff, ordinary hours of duty are those agreed in their part-time work agreement.

63.2 Standard hours are 8.30am to 12.30pm and 1.30pm to 4.51pm.



64. BANDWIDTH

64.1 The span of hours during which employees may work normal hours is 7.00am to 7.00pm Monday to Friday.

64.2 Employees may be directed to work outside this span of hours (e.g. on a Saturday, Sunday or Public Holiday). The key consideration will be operational requirements. **Clause 23** (Extra Duty – Non Executive Level Employees) or **clause 24** (Extra Duty – Executive Level Employees) and **clause 25** (Reasonable Additional Hours) will apply in such circumstances.

64.3 Where an employee is required to travel for the purposes of work and travel commences or concludes outside the bandwidth, hours spent travelling may be claimed as time off in lieu (TOIL) on a 1:1 basis, that is, one hour claimed for each hour outside the bandwidth. Travel within the bandwidth should be treated as normal working hours and recorded accordingly.

64.4 Work related travel time is not to be recorded as overtime.

64.5 Time off in lieu is to be taken as soon as practicable following the conclusion of travel. It is for the purpose of ensuring that the employee is adequately rested before recommencing duty and should not be used to accumulate additional flextime or leave.

65. WORKING PATTERNS

65.1 The pattern of hours which employees will work within the bandwidth is a matter for agreement between managers and staff, subject to the following requirements:

- a) an employee may only work a maximum of 10 ordinary hours per day; and
- b) employees must not work for more than five consecutive hours without a meal break of at least thirty minutes.

65.2 The major consideration in deciding the pattern of hours is operational requirements. Other considerations include:

- a) meeting the requirements of internal and external clients;
- b) impact on other employees in the work area; and
- c) personal needs (including family responsibilities) of the employee. IP Australia is committed to implementing working arrangements which help to balance employees' work and family needs.

66. ATTENDANCE

66.1 Employees will record on a daily basis their actual time of commencing and ceasing work and any breaks.

66.2 Employees working under the flextime provisions (**clause 68**) of this Agreement are required to use the corporate electronic flextime sheet, currently Timekeeper.

66.3 Employees not working under the flextime provisions will keep a record each day of their actual time of commencing and ceasing work and any breaks in a form which is readily available upon request.

66.4 Employees are required to notify their supervisor of unexpected absences as soon as possible.



67. UNAUTHORISED ABSENCES

67.1 Where an employee is absent from duty and the absence is not authorised by IP Australia, all pay and other benefits provided under this Agreement may cease to be available until the employee resumes duty or is granted leave.

67.2 All periods of unauthorised absence do not count for service and affect leave accrual and the eligibility date for pay point advancement.

68. FLEXTIME SCHEME

68.1 The formal flextime scheme applies to all employees in IP Australia at the APS1 - APS6 (and equivalent) and training classifications with the exception of employees on OPW arrangements (see **clause 74** - Telework). Employees on OPW have access to working flexibly in accordance with **clause 71** (Flexible Working Arrangements). Administration of the flextime scheme is set out in the *IP Australia Guide to Flexible Working Arrangements*.

68.2 Although an employee may be working under the flextime provisions of this clause, all leave for full time employees is calculated on the basis of standard hours.

69. FLEX BALANCE

69.1 Employees may carry over a maximum flex credit equivalent to their normal weekly hours from the end of each accounting period to the next. That is, for a full time employee the maximum carry over will be 36.75 hours (7 hours and 21 minutes per day). Part-time employees can carry a maximum equivalent to their approved weekly hours.

69.2 All employees may carry over a maximum debit of ten hours. The amount by which the maximum flex debit at the end of the accounting period is exceeded should be treated as leave without pay or annual leave and appropriate salary action taken.

70. FLEX LEAVE

70.1 The flextime accounting period is four weeks, commencing on alternate paydays. Employees may take the equivalent of a maximum of five standard days flex leave per flex-accounting period provided that no more than five consecutive working days may be taken at any one time.

70.2 Employees must receive prior approval from their supervisors before taking flex leave. Flex leave may be approved subject to the operational requirements of the work area and, wherever possible, taking account of the personal needs of the employee.

70.3 Wherever possible, employees are encouraged to use flex leave to cover part day absences.

71. WORKING ARRANGEMENTS FOR EXECUTIVE LEVEL AND OPW EMPLOYEES

EL2 AND OPW FLEXIBLE WORKING ARRANGEMENTS

71.1 EL2 employees and employees working under an OPW arrangement will work under a system of Flexible Working Arrangements.



71.2 Under Flexible Working Arrangements, ordinary full time hours of work are an average of 36.75 hours per week and may include such reasonable additional hours as are necessary to achieve agreed outcomes.

71.3 These arrangements are to be administered flexibly, taking account of demands on the work area and the employee's need to balance work and personal responsibilities. Particular flexible working hours arrangements, including flexibility for managers to agree to time off in recognition of additional hours worked, will be discussed and agreed between the employee and their direct manager. Wherever possible, reasonable requests will not be refused.

EL1 TIME OFF IN LIEU (TOIL) ARRANGEMENTS

71.4 EL1 employees will have access to TOIL arrangements for additional hours worked within the bandwidth of 7.00am to 7.00pm Monday to Friday with the exception of extra duty approved under **clause 24**.

71.5 Under this clause EL1 employees are entitled to be compensated with time off on an hour for hour basis for additional hours worked within the bandwidth, that is, for time worked in excess of 7hrs 21 minutes per day.

71.6 In managing TOIL arrangements the following will apply.

- a) TOIL should be used as close to when it accrues as practical and taken within four weeks of accrual (the settlement period).
- b) At the conclusion of the settlement period the maximum carryover of TOIL credit is 36.75 hours.
- c) At the conclusion of the settlement period there must be no debit TOIL balance.

72. REVERSION TO STANDARD HOURS

72.1 The Director General may remove an employee's access to flextime, EL1 TOIL or flexible working arrangements in the following circumstances:

- a) it is considered that the employee's attendance is unsatisfactory; and/or
- b) it is considered that the employee is misusing the arrangements.

72.2 Where these circumstances exist employees will revert to standard hours as set out in **clause 63** – Standard Hours.

72.3 The decision to remove access to flextime should be reviewed at regular intervals, normally monthly but at least every 6 months. Access to flextime or flexible working arrangements (as appropriate) will be restored when an employee demonstrates that the circumstances in **clause 72.1** no longer apply.

73. PART-TIME WORK

73.1 A part-time employee is one whose regular hours of work are less than 147 hours over a four week period.

73.2 Proposals for part-time work may be initiated or terminated by agreement between the employees and the Director General. The Director General may approve employee requests for part-time work, subject to operational requirements. There is no obligation on either party to accept the proposal. All approved part time arrangements must be in writing. Where an application is refused the employee will be provided with reasons for refusal in writing.



73.3 Changes to hours and days worked may be varied by either party by giving sufficient notice, in writing, to enable the other party to make alternative arrangements.

73.4 Employees who are parents have access to part-time work for two years from the birth of their child or date of adoption/fostering of a child under the age of sixteen. **Clauses 61.4 to 61.6** provide for flexible working arrangements for parents in compliance with the National Employment Standards and the APS Bargaining Framework.

73.5 Remuneration and other benefits for part-time employees are calculated on a pro rata basis, apart from allowances for which a reimbursement is made for the actual costs incurred. When reimbursement is made for the actual cost incurred part-time employees receive the same amount as full-time employees.

73.6 All leave for part-time employees is calculated on the basis of the hours set out in their part-time work agreement.

74. TELEWORK

74.1 Telework is available to employees on a case by case basis.

74.2 An agreement for all forms of telework must satisfy the following prerequisites. It must:

- a) be suitable for the work performed;
- b) be operationally viable including that any additional costs to IP Australia must be recoverable, through higher productivity, or through attraction and retention of skills, experience and knowledge which would otherwise have to be obtained through higher cost solutions;
- c) be technically viable both from an information management systems and communication technology perspective;
- d) not adversely affect teamwork, normal operations and communications of the section;
- e) be mutually agreed on by the employee, manager and the Director or equivalent;
- f) meet the required security and OH&S standards;
- g) be approved by the relevant delegate; and
- h) be reviewable at any time at the request of IP Australia or the employee.

Additional principles or prerequisites may be applied in Business Groups and described in local guidelines; however these cannot conflict with the prerequisites outlined above.

74.3 The Director General has absolute discretion to approve or reject any application for telework including refusal to approve any application that would bring the total number of telework employees above any maximum number decided by IP Australia at any given time and varied from time to time. Where an application is refused the employee will be provided with reasons for refusal in writing.

74.4 An agreement to telework is voluntary **and does not alter the base location of the position occupied by the employee**. For OPW and Canberra based employees this is the Canberra office, for MPEC employees this is MPEC and for Marketing Managers this is their usual business office location.



74.5 An employee working on a HBW or OPW agreement must maintain a performance rating of Green or higher.

74.6 The Director General may terminate an agreement:

- a) if the employee's performance is unsatisfactory and likely to be assessed as Orange or Red; or
- b) for occupational health and safety reasons in the employee's interests; or
- c) for operational reasons.

74.7 Subject to **clause 74.8 and 74.9** the employee will be liable for any relocation costs associated with an HBW or OPW arrangement where:

- a) an employee relocates to a remote location to work under an HBW or OPW arrangement, or
- b) an employee returns to their base location at the expiration of the HBW or OPW arrangement; or
- c) the HBW or OPW arrangement is terminated because an employee's performance is unsatisfactory or because of operational reasons.

This is including but not limited to removal costs, costs associated with the sale, purchase, rental or insurance of a home, and traveling and incidental costs incurred by the employee or any member of their family or household.

74.8 Where an OPW arrangement which has been in place for at least two years is terminated for operational reasons and the employee is required to relocate to the original base location, IP Australia will contribute to the employee's relocation costs to a maximum of \$6000.

74.9 Where an employee on an OPW agreement sustains a work related injury which has been accepted by Comcare that employee's return to work will be appropriately case managed. If the OPW arrangement is terminated under **clause 74.6(b)** the Director General will provide relocation assistance in accordance with **clause 43** (Relocation) to return the employee to the base location occupied by the employee.

74.10 An employee working under a HBW or OPW arrangement may be required to fully refund all or part of the business costs paid by IP Australia associated with the HBW or OPW arrangement being terminated early or where the employee moves to another residence (whether that new residence is in Canberra or elsewhere) if during the term of the HBW or OPW arrangement:

- a) the employee terminates the HBW or OPW arrangement within the first 12 months; or
- b) moves to another residence less than 12 months after the HBW or OPW arrangements commences or after a previous move; and
- c) the Director General determines that it is appropriate for the HBW or OPW employee to pay for the business costs associated with setting up another home office at the new address.

74.11 The business costs that may be recovered include but are not limited to broadband supply and installation costs, equipment costs, cost of any occupational health and safety assessment and monitoring and any other costs incurred by IP Australia that would not have been incurred if the arrangement had not been entered into.

74.12 Recovery may be made by IP Australia by regular deductions from the employee's salary payment and/or from any final monies owing to the employee in



accordance with the authorisation given by the employee prior to the commencement of the HBW or OPW arrangement.

74.13 Further information on the administration of telework is provided in the *IP Australia Guide to Teleworking*.

74.14 An employee on OPW will be reasonably available to return to the Canberra office to attend performance management meeting and for training, re-familiarisation, coordination and other reasons determined by IP Australia. Reasonable notice will be provided by IP Australia.

74.15 IP Australia will meet travel and accommodation costs, and pay an incidentals allowance for such attendance based on the rates payable to employees undertaking domestic travel for work reasons.

LEAVE

75. APPROACH TO LEAVE MANAGEMENT

75.1 IP Australia's general approach to the management of leave is to:

- a) strike a balance between operational requirements and the personal circumstances of the employee; and
- b) encourage employees to take the most appropriate form of leave in the circumstances; and
- c) encourage employees to take the annual leave due to them annually rather than have it accumulate.

75.2 Further information on the administration of leave is provided in the *IP Australia Guide to Leave*.

76. ANNUAL LEAVE

76.1 Full time employees accrue an annual leave credit of 147 hours (20 days) for each completed year of paid service. This accrual is credited to employees' entitlements each fortnight. Part-time employees accrue annual leave credits on the basis of the hours set out in their part-time work agreement.

76.2 Except as otherwise provided in this Agreement, if an employee takes a period or periods of unpaid leave totaling more than 30 calendar days in any 12 month period (whether authorised or not), the total periods of unpaid leave will not count as service for the purpose of accruing annual leave. In all other cases, authorised leave without pay will count as service for the purposes of accruing annual leave.

76.3 An employee who suffers an injury or illness and is on compensation may continue to accrue annual leave at their normal rate for the first 45 weeks of the absence. After 45 weeks annual leave accrues on a pro rata basis based on the number of hours per week that the employee is working.

76.4 When an employee is on annual leave on one or both sides of a public holiday there will be no deduction from their annual leave credits for the public holiday. Where an employee is on annual leave at half pay before and after a public holiday, payment for the public holiday will be made at full pay.

76.5 If the period during which an employee takes paid annual leave includes a period of any other leave (other than unpaid parental leave), or a period of absence from employment for community service leave, the employee is taken not to be on paid annual leave for the period of that other leave or absence. If this



occurs annual leave will be re-credited to the extent of the period of the other leave or absence granted.

77. HALF PAY ANNUAL LEAVE

77.1 Employees have the option to take their annual leave at half pay. The minimum period of annual leave to be taken at half pay is five consecutive working days. Leave taken under this provision counts as service for all purposes.

78. EXCESS ANNUAL LEAVE

78.1 An employee who has accrued in excess of 55 days annual leave on 1 October each year will be directed to take annual leave until their annual leave credits are reduced to a maximum of 55 days. Leave credits are not subject to this clause while an employee is on over 2 weeks paid leave or on unpaid personal leave. Employees on such leave will have three months after their return to work to reduce the annual leave credits before this clause is applied. The administration details are found in the *IP Australia Guide to Leave*.

79. 'CASHING OUT' ANNUAL LEAVE

79.1 Cashing out may only be agreed where an employee has used at least 10 days annual leave during the 12 month period immediately preceding the application. Paid annual leave cannot be cashed out unless after the cashing out the employee has a balance of annual leave of at least 4 weeks.

79.2 On each occasion an employee cashes out paid annual leave there must be a separate written agreement between the employee and their manager. Payment will be equal to the amount that would have been paid had the employee taken the leave.

80. PURCHASED LEAVE

80.1 Employees have access to a Purchased Leave Scheme, also known as '48/52', which provides for up to a maximum of 4 extra-weeks leave per year.

80.2 Purchased leave requires an employee's annual salary and applicable allowances to be reduced by the amount of salary and allowances payable over the period of leave purchased. The reduced rate of salary and allowances is then paid in either a lump sum or in equal amounts in all pay periods up to the time the leave has been fully paid for (e.g. 3, 6 or 12 months, or as agreed) up to a maximum of 26 pays. The salary used to calculate the purchased leave is the employee's nominal salary at the time of purchase.

80.3 Where the salary and allowances are different at the time of purchase and the time of using the leave, adjustments to the amounts may need to be made as set out in the *IP Australia Guide to Leave*.

80.4 A credit of purchased leave must be fully paid for before it can be used and must be used before another credit of up to 4 weeks can be purchased.

80.5 A leave form must be submitted and approved by the relevant Delegate before taking any purchased leave.

80.6 Purchased leave can be taken on full pay or half pay based on the applicable rate of pay under **clause 80.3**. The minimum period of purchased leave which can be taken at half pay is one week (5 working days) for full time employees or normal weekly hours for part time employees.



81. PERSONAL/CARER'S LEAVE

81.1 Full time employees accrue a personal/carer's leave credit of 147 hrs (20 days) for each completed year of paid service. This accrual is credited to employees' entitlements each fortnight. Part-time employees receive credits on the basis of the hours set out in their part-time work agreement.

81.2 Except as otherwise provided in this Agreement, if an employee takes a period or periods of unpaid leave, other than personal/carer's leave without pay, totaling more than 30 calendar days in any 12 month period (whether authorised or not), the total periods of unpaid leave will not count as service for purpose of accruing personal/carer's leave. In all other cases, authorised leave without pay will count as service for the purposes of accruing personal leave.

81.3 Personal/carer's leave will be taken at full pay unless an employee requests to take the leave at half pay or without pay. All periods of paid personal/carer's leave count as service for all purposes.

81.4 Additional personal/carer's leave may be granted to an employee by the Director General where it is considered that the circumstances are exceptional.

82. PERSONAL/CARER'S LEAVE TYPES

82.1 Personal/carer's leave may be granted in the following circumstances:

- a) sick leave: where the employee is ill or injured; or
- b) carer's leave: to provide care or support to a member of the employee's immediate family, or a member of the employee's household, who requires care or support because of:
 - (i) a personal illness, or injury, of the member; or
 - (ii) an unexpected emergency affecting the member.

82.2 Where an employee (including a casual employee) does not have an entitlement to paid carer's leave, they will be entitled to 2 days unpaid carer's leave on each occasion when a member of the employee's immediate family or household requires care or support referred to in **clause 82.1 (b)**. The leave for a particular occasion can be taken as a single period or any periods to which the employee and the Director General agree. This leave will count for service for all purposes.

83. COMPASSIONATE LEAVE

83.1 Subject to providing appropriate documentary evidence an employee is entitled to:

- a) Three days paid compassionate leave on each permissible occasion where a member of an employee's immediate family or household suffers an injury, or contracts or develops a personal illness, which poses a serious threat to his or her life; or
- b) Three days paid compassionate leave is available on each permissible occasion after the death of a member of an employee's immediate family or household or a close friend,

83.2 The employee may take the period of leave for each permissible occasion as a single period or any separate periods to which the Director General and employee agree.



84. PERSONAL/CARER'S AND COMPASSIONATE LEAVE DOCUMENTARY REQUIREMENTS

84.1 When an employee applies for personal or carer's leave or compassionate leave the documentary evidence which may be accepted is as set out in the definitions (**clause 9**) and the *IP Australia Guide to Leave*.

84.2 The Director General has the discretion to approve up to three consecutive days personal/carer's leave for illness, injury or caring purposes under **clause 82** without a medical certificate or other documentary evidence.

84.3 Where the absence is for more than three consecutive days or the employee has taken 10 days or more of personal leave (with or without pay) without documentary evidence in the previous 12 months of paid service the employee must provide documentary evidence or the leave will be without pay.

84.4 The 10 days referred to in this clause is in relation to full time employees. For employees working part time it will be the equivalent of their normal weekly hours.

84.5 The Director General may require documentary evidence for any period of personal/carer's leave taken by an employee.

85. RELATIONSHIP BETWEEN PERSONAL/CARER'S LEAVE AND OTHER CONDITIONS

85.1 An employee may, with their Doctor's consent, work within the six week mandatory period before their Expected Date of Confinement. If during this period they have been certified fit to remain on duty, they may access personal/carer's leave for caring purposes or for non pregnancy related personal illness/injury on production of supporting documentary evidence.

85.2 An employee is unable to access paid personal/carer's leave while on paid maternity leave.

85.3 An employee will not without his or her consent be retired on invalidity grounds before their personal/carer's leave credits have been exhausted.

85.4 An employee who is retired from the APS on the grounds of invalidity and is subsequently re-appointed as a result of action taken under section 75 of the *Superannuation Act 1976* is entitled to be credited with personal/carer's leave equal to the balance of sick and special leave or equivalent leave types in credit at the time of retirement.

85.5 An employee receiving workers' compensation for a single injury or illness for more than a total of 45 weeks will accrue personal/carer's leave on an 'hours-actually-worked' basis.

85.6 Personal/carer's leave will not be debited where an employee is medically unfit on a public holiday which they would otherwise have observed. Unless the employee is on leave without pay on both sides of the public holiday, the public holiday will be paid at full pay.

86. PERSONAL/CARER'S LEAVE SUBSTITUTION

86.1 Employees who are medically unfit for duty for one day or longer while on annual, long service leave, purchased leave or flex leave and who produce documentary evidence may apply for personal/carer's leave. Annual, long service or flex leave will be re-credited to the extent of the period of personal leave granted.



86.2 Long service leave will only be re-credited for the period specified on the documentary evidence provided, that is, weekends will not be re-credited unless the documentary evidence specifically covers those dates.

86.3 An employee on other approved leave may apply to have their leave changed to personal/carer's leave if faced with significant caring responsibilities. Annual, long service leave, purchased leave or flex leave will be re-credited to the extent of the period of personal/carer's leave granted. Approval of personal/carer's leave in these circumstances is subject to the documentary requirements applying to carer's leave as set out in **clause 84** of this Agreement.

87. MATERNITY LEAVE

87.1 An employee who is entitled to any period of paid or unpaid leave during the mandatory period (12 weeks) under the *Maternity Leave (Commonwealth Employees) Act 1973* (the MLA) is also entitled to an additional two weeks paid leave.

87.2 Approval may be given to spread the payment of paid maternity leave and the additional two weeks over a period of up to 28 weeks at a rate of no less than half normal salary. However, any period beyond the first 14 weeks does not count as service for any purpose. This administrative arrangement does not extend the total of paid or unpaid maternity leave available under the MLA.

87.3 Employees who are CSS or PSS contributors and who have elected to have payment of the 14 weeks spread over 28 weeks must continue their superannuation contributions for the first 14 weeks and may elect to contribute for the following 14 weeks. An election to pay superannuation should be made prior to the employee commencing paid maternity leave. If the employee elects to contribute to superannuation for the 28 week period, the total period counts as service for superannuation purposes.

87.4 When an employee returns to work after a period of maternity leave she will be provided with similar duties at the same classification to those performed prior to taking maternity leave. Where an employee changed duties or worked part time because of the pregnancy, she will be provided with duties similar to those performed prior to any such arrangements.

87.5 An employee in her third trimester has access to a car park at the applicable rate.

88. UNPAID SPECIAL MATERNITY LEAVE

88.1 If an employee who is an expectant mother and has at least 12 months continuous service, experiences a pregnancy related illness, or if her pregnancy ends within 28 weeks of the expected date of birth of the child she will be entitled to a period of unpaid special maternity leave in accordance with section 80 of the *Fair Work Act (2009)*. Unpaid special maternity leave will count for service for all purposes.

88.2 Special maternity leave will operate in conjunction with entitlements under the *Maternity Leave (Commonwealth Employees) Act 1973* (the MLA).

89. ADOPTION/FOSTER CARER'S LEAVE

89.1 An employee, with twelve months or more continuous service in the APS, who is the primary carer, is entitled to paid adoption/foster carer's leave of 14 weeks at full pay or 28 weeks at half pay for the purposes of adopting/fostering a child. Adoption/foster carer's leave may be taken in one block or as separate



absences over a 12 month period at the discretion of the Director General. An employee with less than 12 months continuous service in the APS is eligible for adoption/foster carer's leave, but only two weeks will be paid leave. The adoptive/fostered child must not be a child or step-child of the employee or the employee's partner unless that child had not been in the custody and care of the employee or the employee's partner for a significant period. Where an employee elects to take paid adoption/foster carer's leave at half pay, a maximum of 14 weeks counts as service for all purposes.

89.2 When an employee returns to work after a period of adoption/foster carer's leave the employee will be provided with similar duties at the same classification to those performed prior to taking the leave.

89.3 An employee is entitled to up to 2 days of unpaid pre-adoption/pre-fostering leave to attend any interviews or examinations required in order to obtain approval for the employee's adoption/fostering of a child. However, an employee is not entitled to a period of unpaid pre-adoption/pre-fostering leave if the employee could instead take some other form of leave and IP Australia directs the employee to take that other form of leave.

89.4 An employee who is entitled to a period of unpaid pre-adoption/pre-fostering leave is entitled to take the leave as:

- a) a single continuous period of up to 2 days; or
- b) any separate periods to which the employee and the employer agree.

90. PARENTAL SUPPORT LEAVE

90.1 Following the birth, adoption or fostering of the child, an employee who has parental responsibilities for the child but is not the primary carer may have access to two weeks paid leave in the first 12 months. Parental Support leave will count as service for all purposes.

91. UNPAID PARENTAL LEAVE

91.1 To enable an employee to care for a new born or newly adopted or fostered child, employees who have completed at least 12 months continuous service are entitled up to 52 weeks of unpaid parental leave.

91.2 An employee who takes unpaid parental leave may request IP Australia to agree to an extension of unpaid parental leave for a further period of up to 12 months immediately following the end of the available parental leave period (in accordance with section 76 of the *Fair Work Act 2009*).

91.3 The provision of clause 91.1 does not apply to employees covered by the *Maternity Leave (Commonwealth Employees) Act 1973* (the MLA) to the extent that this Act is more beneficial. Eligible employees will continue to be entitled to a period of paid leave under the provisions of the MLA.

91.4 Employees will have access to unpaid parental leave in accordance to the circumstances outlined in the ***IP Australia Guide to Leave***.

91.5 Unpaid Parental leave does not count as service for any purpose.

91.6 When an employee returns to work after a period of unpaid parental leave the employee will be provided with similar duties at the same classification to those performed prior to taking the leave.



92. LONG SERVICE LEAVE

92.1 Long service leave is granted in accordance with the *Long Service Leave (Commonwealth Employees) Act 1976*.

92.2 Long service leave can be approved on either full or half pay in accordance with sections 16(2) and 16(3) of the *Long Service Leave (Commonwealth Employees) Act 1976*.

92.3 The minimum period of long service leave is 7 days. Employees should note that the method of calculating long service leave provided for in the *Long Service Leave Act 1976* uses calendar months for both accruing and debiting periods of long service leave. Further information on the calculation of long service leave is available in the ***IP Australia Guide to Leave***.

92.4 For employees on Maternity Leave under the provisions of Section 6 of the *Maternity Leave (Commonwealth Employees) Act 1973* taking one period of annual leave in the middle of periods of long service leave is permitted.

93. MISCELLANEOUS LEAVE

93.1 Miscellaneous leave may be granted to employees to provide them with flexibility in balancing their personal and workplace obligations in circumstances not covered by other types of leave.

93.2 Miscellaneous leave may be granted at the discretion of the Director General for the maximum periods and in the circumstances outlined in the ***IP Australia Guide to Leave***. This Guide outlines the circumstances, any maximum periods and whether the leave is with or without pay. The granting of miscellaneous leave is not limited to the circumstances outlined in the Guide.

93.3 Miscellaneous leave with pay counts as service for all purposes. Miscellaneous leave without pay does not count for service except for:

- a) full time study commitments of approved students; or
- b) non-APS employment in the interests of the Commonwealth which will count for long service leave and personal leave purposes providing the employee returns to duty.

93.4 Circumstances in which miscellaneous leave may be granted will be included in the ***IP Australia Guide to Leave***. The Miscellaneous Leave provisions within the Guide can be amended but will not be changed in a manner that reduces the circumstances in which leave may be taken or reduces access to paid leave.

94. CULTURAL, CEREMONIAL AND NAIDOC LEAVE

94.1 IP Australia recognises that all employees have a range of cultural and ceremonial obligations that arise and employees may be granted reasonable amounts of unpaid Miscellaneous Leave for these purposes on a case by case basis as provided in the ***IP Australia Guide to Leave***.

94.2 IP Australia recognises the obligations placed on Aboriginal and Torres Strait Islander employees to participate in ceremonial activities and other cultural obligations. To allow employees to meet obligations and participate in activities, Aboriginal and Torres Strait Islander employees are entitled to 5 days paid leave each year to participate in Cultural/Ceremonial/NAIDOC activities and may also be granted reasonable amounts of unpaid Miscellaneous Leave for these purposes on a case by case basis as provided in the ***IP Australia Guide to Leave***.



95. DEFENCE RESERVE LEAVE

95.1 An employee may be granted leave (with or without pay) to enable the employee to fulfill Australian Defence Force (ADF) Reserve and Continuous Full Time Service (CFTS) or Cadet Force obligations.

95.2 An employee is entitled to ADF Reserve leave for the purpose of fulfilling service in the ADF Reserve including training and operational duty as required.

- a) 20 working days leave on full pay each year for Reservists undertaking Defence service.
- b) An additional 10 days leave on full pay to facilitate participation in additional ADF Reserve training, including induction requirements.
- c) Additional leave for Defence service, either on a paid, unpaid or top up pay basis may be granted by the Director General.
- d) Defence Leave entitlements can be accumulated and taken over a period of two years.
- e) Employees are not required to pay their tax free ADF Reserve salary to the Agency in any circumstances.

95.3 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.

95.4 Leave—for paid and unpaid Defence service counts as service for all purposes with the exception that a period or periods of leave without pay in excess of six months does not count as service for annual leave purposes.

Note: The entitlement to leave for Reserve Service is prescribed under the Defence Reserve Service (Protection) Act 2001.

96. COMMUNITY SERVICE LEAVE

96.1 Employees who are members of eligible community service organisations or absent from work for the purpose of performing community service activities have access to reasonable periods of paid leave for:

- a) emergency services responses; and
- b) reasonable travel time and recovery time associated with the activity-

96.2 Employees selected for jury service (including attendance for jury selection) that is required by or under a law of the Commonwealth, a State or a Territory are entitled to paid leave for the duration of that service.

96.3 Employees who are members of an eligible community service organisation have access to reasonable periods of unpaid leave for:

- a) regular training; and
- b) ceremonial duties.

96.4 Proof of attendance at an emergency, training or ceremonial event, and jury service is to be provided in support of any application for leave.

96.5 Administrative details of community service leave are found in the ***IP Australia Guide to Leave***.



97. COMMUNITY VOLUNTEER LEAVE

97.1 Employees may be granted up to 2 days paid (and thereafter reasonable unpaid) miscellaneous leave each calendar year to volunteer with community organisations registered on the *GoVolunteer* website. Paid leave will not be available to attend ceremonial functions unless the organisation certifies in writing that the employee is required to attend as part of their duties.

97.2 Volunteer work must not:

- a) involve any payment in cash or kind for work performed;
- b) replace a paid worker;
- c) as a general rule be undertaken solely for direct personal benefit;
- d) be work which does not have a community focus;
- e) present a conflict of interest for the Agency; and
- f) be primarily focused on promoting particular religious or political views.

97.3 The amount of leave granted will take account of operational requirements.

98. CANCELLATION OF LEAVE OR RECALL FROM LEAVE

98.1 Employees are required to gain prior approval for periods of annual leave, purchased leave and long service leave. When the Director General has formally approved such leave, that approval should only be cancelled or an employee recalled to duty in exceptional circumstances.

98.2 If an employee's formally approved annual leave or long service leave is cancelled without reasonable notice or the employee is recalled to duty from such leave, the employee will be entitled to be reimbursed for all reasonable expenses incurred as a result of the cancellation or recall.

99. PUBLIC HOLIDAYS

99.1 The employee is entitled to public holidays declared by or under a law of a State or Territory to be observed in the locality at which the employee works in accordance with the *Fair Work Act 2009*.

99.2 Employees will observe, as an additional holiday, one of the normal working days between Christmas Day and New Year's Day. Payment for this holiday will be made as if it were a public holiday.

99.3 Where the Director General and an employee agree, another day may be substituted for any holiday prescribed above (e.g. for religious purposes). When an employee cannot work on a day for which a substituted holiday has been granted, the affected employee will work make-up time to be agreed with the Director General, without entitlement to overtime payment.

99.4 Employees will observe public holidays without loss of pay provided that they have been in receipt of salary on one side of the public holiday.

99.5 Employees on temporary transfer to an interstate location or undertaking OPW will observe the public holidays in that location.

100. CHRISTMAS CLOSEDOWN

100.1 IP Australia staff are generally not required to work during the period between the Christmas and New Year's Day public holidays. Employees will be granted paid leave without deduction from leave credits for these two days.



100.2 An employee who is directed to work over the two-day closedown period has the option of overtime payment at time and a half or time off in lieu at time and a half. Time off in lieu is to be taken within four weeks or at an alternative time convenient to the employee and agreed with the Director General.

100.3 Employees who are required to work during this period will be given as much notice as possible. Where less than seven working days notice is given, the employee receives overtime or time off in lieu at a rate of double time.

100.4 For the payment of on call duty (and any associated overtime), the two-day closedown period is treated as ordinary weekdays.

101. ATTENDANCE MANAGEMENT

101.1 The parties to this Agreement commit to the continued management of in IP Australia with the aim of reducing the rate of unscheduled absence compared to the APS median. During the life of this Agreement the following principles apply:

- a) A limit of **810** days personal leave per year may be granted without documentary evidence (see **clause 84** – Personal/Carer's Leave Documentary Requirements).
- b) A commitment to better management of leave usage, including self management by staff and the development of strategies which encourage staff to engage actively with their work.
- c) Wherever possible, employees are encouraged to use flex leave to cover part day absences.
- d) Continuing emphasis on employee health and wellbeing programs, continued prevention processes relating to occupational health and safety, worker's compensation and other work-life policies currently available to employees including a Health and Wellbeing Allowance (**clause 46**).

FAMILY FRIENDLY WORKPLACE

102. FAMILY ASSISTANCE ARRANGEMENTS

102.1 IP Australia will provide vacation child care subsidy for accredited providers at \$25.00 per child per day of care for primary school age children. The amount is adjusted annually in accordance with **Attachment E**.

102.2 IP Australia employees have access to a work-life information and referral service that provides information on options for child care, elder care and care for dependants with a disability. Details on how to obtain access to this service are specified in the ***IP Australia Guide to Family Assistance***.

103. CARER'S ROOM

103.1 IP Australia provides a facility to enable employees to carry out aspects of their normal work while still caring for their dependants in emergency situations. The use of the facility for this and other purposes (e.g. for nursing mothers) is in accordance with the ***IP Australia Guide to Family Assistance***.

104. LACTATION BREAKS

104.1 IP Australia has received accreditation by the National Breastfeeding Association as a breastfeeding friendly workplace. Employees can take reasonable time during working hours for lactation breaks.



105. EXTRA DEPENDANT CARE COSTS

105.1 In recognition of dependant care responsibilities the Director General may authorise the reimbursement of costs incurred arising from additional family care arrangements made necessary in exceptional circumstances, such as when an employee is required to:

- a) travel away from home outside normal working hours for business purposes, work additional hours or is directed to attend a conference or training course outside the bandwidth; or
- b) for part-time employees, if they are directed and agree to work outside the agreed hours of work.

106. MEETING TIMES

106.1 To assist IP Australia employees to meet their personal responsibilities all meetings are to be scheduled to meet the needs of the participants. Wherever possible meetings will not commence before 9.00am and will conclude by 5.00pm, unless otherwise agreed.

107. OCCUPATIONAL HEALTH AND SAFETY

107.1 IP Australia will strive to promote and maintain a safe workplace and work environment. IP Australia is committed to promoting and maintaining the highest practicable degree of physical, mental and social well-being, and safety, of our employees at work.

MANAGING EXCESS EMPLOYEES

108. MANAGING EXCESS EMPLOYEES

108.1 The following redeployment, retirement and redundancy (RRR) provisions will apply to excess and potentially excess employees of IP Australia. These provisions do not apply to:

- a) non-ongoing employees; or
- b) ongoing employees who are on probation.

108.2 An excess staffing situation will exist where:

- a) there are a greater number of employees at a particular level than is necessary for the efficient and economical operations of IP Australia;
- b) the services of an employee cannot be used effectively because of technological or other changes in the work methods of IP Australia or structural or other changes in the nature, extent or organisation of the functions of the agency; or
- c) the duties usually performed by an employee are to be performed at another locality and the employee is not willing to perform the duties at that locality and the Director General has determined that the excess staff provisions of this agreement apply to the employee.

108.3 Where such a situation has been identified, the Director General will establish which employees are potentially excess.

108.4 At the time of the offer of voluntary termination or as soon as possible there after but, in any event, no later than one month after the offer, employees(s) will be provided with Career Transition Assistance which will include:



- a) advice on the re-assignment and redundancy process;
- b) a point of contact for individual queries;
- c) assistance with identifying re-assignment opportunities; and
- d) training/redeployment assistance.

109. EXCESS EMPLOYEES - CONSULTATION

109.1 IP Australia will inform an employee if they are likely to become excess and hold discussions with the employee which will include:

- a) the reasons they are likely to become excess;
- b) redeployment options available, including possible referral to a relevant placement agency; and
- c) voluntary and involuntary redundancy options.

109.2 If requested by the employee, an employee representative will be involved in these discussions.

109.3 The Director General may call for expressions of interest from employees who wish to be offered voluntary redundancy in lieu of those who do not wish to accept such an offer.

110. VOLUNTARY REDUNDANCY

110.1 The Director General may make an offer of voluntary redundancy to the employees who are potentially excess to IP Australia's requirements:

- a) after the discussions referred to in **clause 109** have been held; or
- b) if the employee or, where they choose, their representative has declined to discuss the matter, at least 14 calendar days after the advice, in **clause 109** that the employee is likely to become excess.

110.2 At the time of receiving the offer, the employee will be offered up to \$450 for obtaining financial advice and provided with the following information:

- a) the amount of severance pay, pay in lieu of notice and leave credits;
- b) the amount of their accumulated superannuation contributions and their options concerning superannuation; and
- c) the taxation rules applying to the various payments.

Note: This information is provided for guidance purposes only and is not an offer capable of forming a binding contract.

110.3 An employee may be formally declared excess at the time the offer of voluntary redundancy is made or at the end of the election period referred to in **clause 110.4**.

110.4 From the date of the receipt of the above offer of voluntary redundancy, the employee will have one month in which to accept the offer. If the employee fails to respond within the one month period, they will be taken to have declined the offer.

110.5 Where the offer of voluntary redundancy is accepted, the Director General may, with the consent of the employee, give notice of termination of their employment under section 29 of the *Public Service Act 1999* before the end of the one month period. In such cases, salary and other pro rata benefits in lieu of the election period will be paid.



110.6 Only one offer of voluntary redundancy will be made to an excess employee in each exercise; that is, if they are redeployed in one exercise they are no longer excess. They may become excess in a new position.

111. PERIOD OF NOTICE

111.1 Where an employee agrees to voluntary redundancy, the Director General can approve the individual's termination of employment under section 29 of the *Public Service Act 1999* and upon approval, will give the required Notice of Retirement. The period of notice will be four weeks (or five weeks if the employee is over 45 years of age with at least five years of continuous service).

111.2 Where an employee's employment is terminated at the beginning of, or within, the notice period, the employee will receive payment in lieu of notice for the unexpired portion of the notice period.

112. SEVERANCE BENEFIT

112.1 An employee who accepts an offer of voluntary redundancy and whose employment is terminated by the Director General under section 29 of the *Public Service Act 1999* on the grounds that they are excess to requirements is entitled to be paid:

- a) a sum equal to two week's salary for each completed year of service, subject to any minimum amount the employee is entitled to under the National Employment Standards; and
- b) a pro rata payment for completed months of service since the last completed year of service.

112.2 The minimum sum payable is four weeks salary and the maximum sum payable is 48 weeks salary.

112.3 The severance benefit will be calculated to take account of any period where the employee has worked part-time hours during their period of service and the employee has less than 24 years full-time service.

113. PERIOD OF SERVICE FOR SEVERANCE PAY PURPOSES

113.1 Period of service for severance pay purposes means:

- a) service in IP Australia;
- b) Government service as defined in section 10 of the *Long Service Leave (Commonwealth Employees) Act 1976*;
- c) service with the Commonwealth (other than service with a Joint Commonwealth-State body corporate in which the Commonwealth has a controlling interest) that is recognised for long service leave purposes;
- d) service with the Australian Defence Forces;
- e) APS service immediately preceding deemed resignation, if the service has not previously been recognised for severance pay purposes; and
- f) service in another organisation where an employee was transferred from the APS to that organisation with a transfer of function, or an employee engaged by that organisation to work within a function, is appointed as a result of the transfer of that function to the APS and such service is recognised for long service leave purposes.



113.2 For earlier periods of service to count, there must be no breaks between the period of service, except where:

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

113.3 Any period of service which ceased by way of:

- a) redundancy;
- b) retirement on the grounds of invalidity;
- c) inefficiency or loss of essential qualifications;
- d) forfeiture of office;
- e) dismissal;
- f) termination of probationary period for reasons of unsatisfactory service; or
- g) voluntary retirement at or above the minimum retiring age (for superannuation purposes) applicable to the employee, or with the payment of a redundancy benefit or similar payment, or with an employer-financed retirement benefit

does not count as service for severance pay purposes.

113.4 In calculating the period of service, periods of leave without pay will be taken into consideration and may not count as service.

114. RATE OF PAYMENT FOR SEVERANCE PURPOSES

114.1 For the purpose of calculating payment of a severance benefit, salary will include:

- a) the employee's salary at the date of termination;
- b) any higher duties allowance where the employee has been in receipt of the allowance for a continuous period of at least 12 months immediately preceding the date of termination; and
- c) 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.

115. ACCELERATED SEPARATION

115.1 IP Australia may offer an accelerated separation option to employees who have been identified as eligible to be made an offer of voluntary redundancy. This option provides employees whose employment is terminated under section 29 of the *Public Service Act 1999* within 14 days of receiving an offer of voluntary redundancy an amount of four weeks salary (or five weeks salary for an employee over 45 years of age with at least five years continuous service) as payment in lieu of notice, as provided in **clause 111**.



115.2 Where an employee elects not to accept an offer of this option, the normal separation provisions apply.

116. RETENTION PERIODS

116.1 If an excess employee does not accept voluntary redundancy, the Director General shall not involuntarily terminate the employee's employment under section 29 of the *Public Service Act 1999* until either of the following retention periods has elapsed, the duration of which will be reduced by an amount equivalent to the National Employment Standards redundancy entitlement:

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

116.2 The retention period will commence on the day on which an employee is notified in writing that they are excess.

116.3 If an employee is entitled to a redundancy payment in accordance with the National Employment Standards, the relevant period as set out in **clause 116.1** above is reduced by the number of weeks redundancy pay that the employee will be entitled to under the National Employment Standards on termination, as at the expiration of the retention period (as adjusted by this clause).

116.4 During the retention period, IP Australia:

- a) Will continue to take reasonable steps to find alternative employment for the employee including referral to a relevant placement agency.
- b) Will consider an excess employee in isolation from and not in competition with other applicants for the advertised vacancy within IP Australia to which an excess employee seeks transfer.
- c) May, with 4 weeks notice, transfer the excess employee to a lower level vacancy. Where an excess employee is reduced in classification before the end of the retention period, the employee will receive income maintenance to maintain their salary at the previous higher level for the balance of the retention period. The amount of income maintenance to be paid will be calculated in accordance with **clause 114** for the remainder of the period that the excess employee would have occupied the higher position during the retention period.

116.5 During the retention period, the employee:

- a) will take reasonable steps to find alternative employment; and
- b) actively participate in learning and development activities, trial placements or other arrangements to assist in obtaining a permanent placement.

116.6 The employee may request assistance in meeting reasonable travel and incidental expenses incurred in seeking alternative employment. The Director General may approve such a request.

116.7 Where it is necessary as a result of transfer or reduction in classification for an excess employee to move the employee's household to a new locality, the employee may be entitled to reasonable expenses in accordance with IP Australia relocation provisions (**clause 43**) where these are not met by the prospective employer.

116.8 The retention periods under **clause 116.1** will be extended by any periods of paid certificated leave for personal illness or injury taken during the original retention period. Any leave taken for these purposes during the period beyond the



original retention period will not have any effect on extending the retention period. If considered appropriate a medical appointment will be made with a registered medical practitioner nominated by IP Australia and the excess employee will attend.

116.9 The specified periods of notice will be, as far as practicable, concurrent with the retention periods.

117. INVOLUNTARY TERMINATION

117.1 The Director General may not involuntarily terminate an excess employee's employment under section 29 of the *Public Service Act 1999* until the end of the retention period.

117.2 Where the Director General believes that there is insufficient productive work for an excess employee during the retention period, the Director General may, with the agreement of the excess employee, terminate the employee's employment under section 29 of the *Public Service Act 1999* and pay the balance of the retention period as a lump sum. Any such payment will be reduced by an amount equivalent to the employee's entitlement to redundancy pay under the National Employment Standards:

- a) the balance of the retention period as shortened by the National Employment Standards. This payment will be taken to include the payment in lieu of notice of termination of employment; and
- b) an amount of redundancy pay as per the National Employment Standards.

117.3 An excess employee will not be terminated involuntarily if the employee has not been invited to accept an offer of voluntary redundancy or has elected to be retired but the Director General has refused to approve the retirement.

117.4 An excess employee will not be terminated involuntarily without being given four weeks notice (or five weeks for an employee over 45 with at least five years of continuous service) of termination.

117.5 Excess employees will be informed of IP Australia's review mechanisms as action is taken. Where an excess employee's employment is terminated, the only right of review against termination of employment shall be in accordance with the provisions of **clause 57** of this Agreement.



ATTACHMENT A: RATES OF PAY

Classification	Pre-Commencement Date salary (\$)	Salary from Commencement Date 3.5% (\$)	Salary from 1 July 2012 3% (\$)	Salary from 1 July 2013 2.5% (\$)
APS 1	39,853	41,248	42,486	43,549
	41,306	42,752	44,035	45,136
	42,759	44,256	45,584	46,723
	44,212	45,760	47,133	48,312
APS 2	45,836	47,441	48,865	50,087
	47,287	48,943	50,412	51,673
	48,737	50,443	51,957	53,256
	50,187	51,944	53,503	54,841
APS 3	51,529	53,333	54,933	56,307
	52,992	54,847	56,493	57,906
	54,454	56,360	58,051	59,503
	55,919	57,877	59,614	61,105
APS 4	57,336	59,343	61,124	62,653
	58,939	61,002	62,833	64,404
	60,542	62,661	64,541	66,155
	62,146	64,322	66,252	67,909
APS 5	63,844	66,079	68,062	69,764
	65,369	67,657	69,687	71,430
	66,892	69,234	71,312	73,095
	68,417	70,812	72,937	74,761
APS 6	69,724	72,165	74,330	76,189
	72,885	75,436	77,700	79,643
	76,044	78,706	81,068	83,095
	79,204	81,977	84,437	86,548
EL1	87,516	90,580	93,298	95,631
	91,177	94,369	97,201	99,632
	94,837	98,157	101,102	103,630
	98,499	101,947	105,006	107,632
EL 2	103,490	107,113	110,327	113,086
	109,206	113,029	116,420	119,331
	114,924	118,947	122,516	125,579
	120,644	124,867	128,614	131,830
Patent Examiner	See Attachment B			
Trade Mark and Plant Breeders Rights Broadband	See Attachment C			
Training Classifications	See Attachment D			

ATTACHMENT B: EXAMINER OF PATENTS - RATES OF PAY AND PAY POINT ADVANCEMENT PROVISIONS

B1. Application

B1.1 This Attachment applies to employees performing the duties of an Examiner of Patents in IP Australia and the pay point advancement provisions within the Examiner of Patents structure (refer **Table B1**).

B1.2 This Attachment should be read in conjunction with the *PPBRG Learning and Advancement Manual*.

B2. Recruitment

B2.1 Entry to the position of Examiner of Patents will be based on merit selection.

B3. Salary on Commencement

B3.1 The salary on commencement provisions in this Attachment override **clause 15** (Salary on Engagement, Promotion or Transfer) of this Agreement to the extent of any inconsistency.

B3.2 Examiners of Patents will commence on the minimum salary pay point (pay point 1).

B3.3 The Director General may approve a commencement salary above the minimum salary pay point where the employee's experience, qualifications and skills warrant (e.g. in recognition of current competency).

B4. Salary on Promotion or Transfer as an Examiner of Patents

B4.1 If the rate of salary payable to an employee prior to promotion or transfer to the position of Examiner of Patents does not equate to a pay point within the Examiner of Patents rates of pay (**Table B1** refers), the employee will be paid at the next highest pay point within the Examiner of Patents rates of pay. The employee is still required to satisfactorily complete all requirements of the PEQC and PEPA before further salary increases are payable or delegations exercised.

B4.2 Where an employee's salary in their previous agency exceeds the maximum rate for the Examiner of Patents classification, the employee will be maintained on their current salary until such time as their salary is absorbed by IP Australia pay increases. The employee is still required to satisfactorily complete all requirements of the PEQC and PEPA before exercising any delegations.

B5. Pay point Advancement

B5.1 IP Australia has a range of training modules and assessment processes for Examiners of Patents which are set out in the *PPBRG Learning and Advancement Manual*. In order to progress within the Examiner of Patents structure employees are required to successfully complete these processes. The pay point advancement provisions in this Attachment override **clause 59** of this Agreement to the extent of any inconsistency.

B5.2 **Advancement from Pay point 1 to Pay point 2.** An employee may be advanced to the second pay point when they have completed the PEQC program and have been assessed as competent against all the units of competency under PEQC.

B5.3 **Advancement from Pay point 2 to Pay point 3.** An employee whom the Commissioner of Patents has determined has satisfied the requirements for



granting of the Acceptance Delegation under the PEPA program will be advanced to pay point 3.

B5.4 **Advancement through Pay points 4 to 7.** After reaching pay point 3 Examiners of Patents will be subject to the normal provisions of the pay point advancement process (**clause 59**).

B5.5 **Pay point 8.** An Examiner of Patents who has been at pay point 7 for 12 months and who has been assessed in the previous five years as 'Outstanding'/'Silver' or 'Gold' in at least two years of the period of exercising the Acceptance Delegation and at least 'Effective'/'Green' in the other years and continues to do so.

B6. Reversionary Mechanism

B6.1 An Examiner of Patents who has the Commissioner’s Acceptance Delegation but fails to maintain their performance at an acceptable level may have the delegation revoked.

B6.2 Any action taken to revoke the Acceptance Delegation is to be done in accordance with **Performance: Achieving Together**.

B6.3 In cases where the revocation occurs the employee concerned will move to pay point 2 until such time as they are again determined to be competent to reliably exercise the Commissioner of Patents Acceptance Delegation. When so determined, they will move to the pay point at which they were before the reversion.

Table B1: Patent Examiners Rates of Pay

Current Structure Pre Commencement Date Salary		Salary from Commencement Date 3.5%	Salary from 1 July 2012 3%	Salary from 1 July 2013 2.5%
PP	\$	\$	\$	\$
1	66,047	68,359	70,410	72,171
2	67,727	70,098	72,201	74,007
See Note 1	70,858	73,339	75,540	77,429
3	72,765	75,312	77,572	79,512
4	76,683	79,367	81,749	83,793
5	80,601	83,423	85,926	88,075
6	84,295	87,246	89,863	92,110
7	87,989	91,069	93,802	96,148
8	92,467	95,704	98,576	101,041

Note 1. Grandfathered Paypoint PE8 – see clause B7.1

Transitional Arrangements

B7.1 Current examiners on the old PE 8 pay point will not move to Table B1 pay point 3 until they complete their PEPA – AD.



ATTACHMENT C: TRADE MARK, DESIGN AND PLANT BREEDERS RIGHTS EXAMINERS BROADBAND - RATES OF PAY AND PAY POINT ADVANCEMENT PROVISIONS

C1. Application

C1.1 This Attachment applies to employees performing the duties of Trade Mark or Design Examiner (APS4-APS6) and Plant Breeders Right Examiner (APS5-APS6) and the salary and level advancement provisions within the Trade Mark and Designs Examiner and Plant Breeders Rights Examiners Broadband (refer **Tables C1 and C2**).

C1.2 Remuneration is linked to the IP Australia APS classifications.

C2. Recruitment

C2.1 Entry to the position of Examiner of Trade Marks and Designs and Plant Breeders Rights Examiners and therefore the Broadband is based on merit selection.

C3. Salary on Commencement

C3.1 The salary on commencement provisions in this Attachment override **clause 15** (Salary on Engagement, Promotion or Transfer) of this Agreement to the extent of any inconsistency.

C3.2 Trade Mark or Design Examiners commence on the minimum salary pay point of the APS 4 level, subject to **clause C3.3**.

C3.3 The Director General may approve a commencement at a broadband classification level higher than APS4 and/or salary above the minimum where the employee's experience, qualifications and skills warrant (e.g. in recognition of current competency).

C3.4 Plant Breeders Rights Examiners commence on the minimum salary pay point of the APS 5 level, subject to **clause C3.5**.

C3.5 The Director General may approve a commencement at a broadband classification level higher than APS5 and/or salary above the minimum where the employee's experience, qualifications and skills warrant (e.g. in recognition of current competency).

C4. Salary on Promotion or Transfer as a Trade Mark, Design or a Plant Breeders Rights Examiner

C4.1 If the rate of salary payable to an employee prior to promotion or transfer to the position of Trade Mark, Design, or Plant Breeders Rights Examiner, does not equate to a pay point within the IP Australia salary rates, the employee will be paid at the next highest pay point. The employee is still required to satisfactorily complete all requirements of competency-based assessment before further salary increases are payable or delegations exercised.

C4.2 Where an employee's salary in their previous agency exceeds the maximum rate for the classification, the employee will be maintained on their current salary until such time as their salary is absorbed by IP Australia pay increases. The employee is still required to satisfactorily complete all requirements of competency based assessment before exercising any delegations.



C5. Pay point Advancement

C5.1 Pay point advancement within each APS level will occur annually, based on a documented performance rating of 'Green' or better as set out in **clause 59** (Paypoint Advancement) of this Agreement.

C6. Level Advancement

C6.1 A competency based training program will assist staff to gain the skills and competence to progress through the broadband.

Trade Marks and Designs Examiners

C6.2 Assessment for level advancement under Table C1 will be conducted on an ongoing basis by trained workplace assessors within the Trade Marks Office based on the **Trade Marks and Design Learning and Development Manual** as varied from time to time.

C6.3 Advancement across APS classifications from Assessment 1 to Assessment 3 within the broadband will require:

- a) a performance rating of at least 'Green';
- b) satisfactory completion of the relevant competency based training program or equivalent; and
- c) an assessment of competence for advancement to the next level.

C6.4 Movement to pay point 10 is for an examiner who has been at new pay point 9 for 12 months and has been assessed in the previous five years as 'Outstanding'/'Silver' or 'Gold' in at least two of the years of exercising the Acceptance Delegation and at least 'Effective'/'Green' in the other years and continues to do so.

Plant Breeders Rights Examiners

C6.5 Assessment for level advancement under Table C2 will be conducted on an ongoing basis based on the **PBR (Plant Breeders Rights) Competency Program** as varied from time to time. Advancement beyond pay point 1 requires achievement of Assessment 1.

C6.6 Advancement to pay point 4 within the broadband will require:

- a) a performance rating of at least 'Green';
- b) satisfactory completion of Assessment Level 2; and

C6.7 Movement to pay point 8 is for an examiner who has been at new pay point 7 for 12 months and has been assessed in the previous five years as 'Outstanding'/'Silver' or 'Gold' in at least two of the years of exercising the Acceptance Delegation and at least 'Effective'/'Green' in the other years and continues to do so.

C7. Regression

C7.1 Regression by pay point or by level is possible within the broadband.

C7.2 Processes relating to regression will be consistent with the requirements of the *Public Service Act 1999* and **Performance: Achieving Together**.

C8. Higher duties

C8.1 Consistent with **clause 36.5** of this Agreement higher duties arrangements will not apply within the broadband.



Table C1: Trade Mark and Design Examiners Broadband Rates of Pay

Current Structure Pre Commencement Date Salary		Commencement Date	Salary from 1 July 2012	Salary From 1 July 2013	APS Classification Equivalent
PP	\$	3.5% \$	3% \$	2.5% \$	
1	57,336	59,343	61,124	62,653	APS 4 Assessment 1
2	58,939	61,002	62,833	64,404	
See Note	60,481	62,598	64,476	66,088	
3	63,844	66,079	68,062	69,764	APS 5 Assessment 2 (AD)
4	65,369	67,657	69,687	71,430	
5	66,892	69,234	71,312	73,095	
6	69,724	72,165	74,330	76,189	APS 6 Assessment 3
7	72,885	75,436	77,700	79,643	
8	76,044	78,706	81,068	83,095	
9	79,204	81,977	84,437	86,548	
10	82,616	85,508	88,074	90,276	

No e. Grandfathered Paypoint only applies to Trade Mark Examiner positions - not permanent pay points in the new structure See clause C9.1

Table C2: Plant Breeders Rights Examiners Broadband Rates of Pay

Current Structure Pre Commencement Date Salary		Commencement Date	Salary from 1 July 2012	Salary from 1 July 2013	APS Classification Equivalent
PP	\$	3.5% \$	3% \$	2.5% \$	
1	63,844	66,079	68,062	69,764	APS 5 Assessment Level 1
2	65,369	67,657	69,687	71,430	
3	66,892	69,234	71,312	73,095	
See Note	68,417	70,812	72,937	74,761	
4	69,724	72,165	74,330	76,189	APS 6 Assessment Level 2
5	72,885	75,436	77,700	79,643	
6	76,044	78,706	80,676	83,095	
7	79,204	81,977	84,437	86,548	
8	82,616	85,508	88,074	90,276	

Note . Grandfathered Paypoint only applies to Plant Breeders Rights Examiners at APS 5.4 increment Examiner - not permanent pay points in the new structure See clause C9.2

C9 Transitional Arrangements

C9.1 Current Trade Mark examiners on the pay point APS 4.4 will not move to Table C1 pay point 3 until they complete Assessment 2.

C9.2 Current Plant Breeders Rights examiners on the APS 5.4 will not move to the Table C2 pay point 4 until they complete Assessment 2.



**ATTACHMENT D - TRAINING CLASSIFICATIONS – RATES OF PAY AND
ADVANCEMENT PROVISIONS**

Classification	PP	Pre-Commencement Date salary	Salary from Commencement Date	Salary from 1 July 2012	Salary from 1 July 2013
		(\$)	3.5% (\$)	3% (\$)	2.5% (\$)
Trainee and Trainee APS (Technical)	1	39,853	41,248	42,486	43,549
	2	41,306	42,752	44,035	45,136
	3	42,759	44,256	45,584	46,724
	4	44,212	45,760	47,133	48,312
Cadet – Full time Study	1	22918	23,721	24,433	25,044
	2	23644	24,472	25,207	25,838
Cadet- Work placement	1	45,836	47,441	48,865	50,087
	2	47,287	48,943	50,412	51,673
	3	48,737	50,443	51,957	53,256
	4	50,187	51,944	53,503	54,841
Graduate APS	1	51,529	53,333	54,933	56,307
	2	52,992	54,847	56,493	57,906
	3	54,454	56,360	58,051	59,503
	4	55,919	57,877	59,614	61,105

D1 Salary on commencement

D1.1 Salary on engagement as a Trainee, Cadet or Graduate will be to the classification and salary specified in this Attachment.

D2 Salary Advancement

D2.1 On successful completion of their course of study or training employees will be advanced as follows:

- a) Trainee APS (Technical) can¹ be advanced to the minimum salary point of an APS 3 Level.
- b) Cadets will be advanced to the minimum point of the APS3 Level.
- c) Cadets who are invited onto the Graduate Program will continue to be engaged as an APS3 and will be eligible for Paypoint Advancement under **clause 59**.
- d) On successful completion of the Graduate Program, employees will be transferred to the relevant IP Australia Broadband and advanced under the terms of that Broadband.

Notes:

- 1. Conditions for recruitment to training classifications will be set out in IP Australia policies.
- 2. For example, the BIMS (APS4-6) Broadband would be the relevant IP Australia Broadband applicable to IT graduates.



ATTACHMENT E: ADJUSTMENT MECHANISMS - ALLOWANCES/RATES

Adjustment mechanism	Allowance/Rate	Clause
Adjusted in line with Fair Work Australia's Minimum Wage Panel.	<ul style="list-style-type: none"> Minimum supported wage payable per week 	Clause 19
Adjusted in line with IP Australia salary increases.	<ul style="list-style-type: none"> On Call Allowance 	Clause 32
<p>Adjusted by the annual consumer price index (CPI) as provided by the Australian Bureau of Statistics for the year ending 30 June to be paid from the first pay period commencing on or after publication of the annual CPI.</p> <p>In exceptional circumstances further adjustments will be made to maintain equity. Following the CPI adjustment, the rates will be rounded up to the nearest ten cents.</p>	<ul style="list-style-type: none"> First Aid Officer Allowance Emergency Control Officer Allowances Equity and Diversity Contact Officer Allowance Health and Safety Representatives Allowance 	Clause 38
	<ul style="list-style-type: none"> Patent Document Translation Allowance 	Clause 39
	<ul style="list-style-type: none"> Reasonable cost of a pair of glasses 	Clause 42
	<ul style="list-style-type: none"> Vacation child care subsidy 	Clause 102
The Director General may review and increase the rates of allowances payable having regard to the relevance and adequacy of rates. Revised rates, if any, will be made available to employees and published in the <i>IP Australia Guide to Allowances</i> .	<ul style="list-style-type: none"> Meal Allowance 	Clause 40



ATTACHMENT F: PRINCIPLES FOR WORKPLACE DELEGATES

F1. The role of union workplace delegates and other elected union representatives is to be respected and facilitated.

F2. Agencies and union workplace delegates must deal with each other in good faith.

F3. In discharging their representative roles at the workplace level, the rights of union workplace delegates include but are not limited to:

- the right to be treated fairly and to perform their role as workplace delegates without any discrimination in their employment;
- recognition by the agency that endorsed workplace delegates speak on behalf of their members in the workplace;
- the right to participate in collective bargaining on behalf of those whom they represent, as per the Fair Work Act
- the right to reasonable paid time to provide information to and seek feedback from employees in the workplace on workplace relations matters at the agency during normal working hours;
- the right to email employees in their workplace to provide information and seek feedback, subject to individual employees exercising a right to opt out';
- undertaking their role and having union representation on an agency's workplace relations consultative committee;
- reasonable access to agency facilities (including telephone, facsimile, photocopying, internet and email facilities, meeting rooms, lunch rooms, tea rooms and other areas where employees meet) for the purpose of carrying out work as a delegate and consulting with members and other interested employees and the union, subject to agency policies and protocols;
- the right to address new employees about union membership at the time they enter employment;
- the right to consultation, and access to relevant information about the workplace and the agency; and
- the right to reasonable paid time to represent the interests of members to the employer and industrial tribunals.

F4. Unions will provide the Agency with an accurate list of workplace delegates and recognised representatives in the workplace and update that list within 14 days of any changes.

F5. In discharging any roles that may involve undertaking union business, the rights of union workplace delegates include but are not limited to:

- reasonable paid time during normal working hours to consult with other delegates and union officials in the workplace, and receive advice and assistance from union staff and officials in the workplace;
- reasonable access to appropriate training in workplace relations matters including training provided by a union;
- reasonable paid time off to represent union members in the agency at relevant union forums.



F6. In exercising their rights, workplace delegates and unions will consider operational issues, departmental policies and guidelines and the likely affect on the efficient operation of the agency and the provision of services by the Commonwealth.

F7. For the avoidance of doubt, elected union representatives include APS employees elected to represent union members in representative forums, including, for example, CPSU Section Secretaries, Governing Councillors and Section Councillors, and APESMA Government Division Committee members.

Note: This attachment outlines the principles for workplace delegates which agencies are to follow and should be read in conjunction with Part 1.5 of the Australian Public Service Bargaining Framework Supporting Guidance.



ATTACHMENT G: PROTOCOLS AND FACILITIES FOR BARGAINING REPRESENTATIVES

G1 Principles

G1.1 In considering its approach to facilities and protocols for bargaining representatives, the following principles should guide agencies' positions:

G1.2 Agencies acknowledge that bargaining representatives (who may include workplace delegates and elected union officials who are also APS employees) have a legitimate role to play in bargaining for enterprise agreements and should take reasonable steps to facilitate their participation in the bargaining process.

G1.3 Freedom of association must be respected. This includes not only the right to join, or not join a union, but also the right to choose whether or not to become involved in union activity in any way, including whether or not to receive communications from unions.

G1.4 Agency resources are not to be used for promoting or facilitating industrial action of any kind.

G1.5 Participation in the bargaining process should not unduly interfere with an APS employee's paid employment.

G1.6 It may be appropriate to provide greater support for a bargaining representative who is representing a large number or a large proportion of agency employees, than for a bargaining representative who is representing a small number or a small proportion of agency employees, or only themselves.

G1.7 Right of entry provisions of the Fair Work Act apply at all times during the bargaining period. It is expected that union officials will be invited to attend enterprise bargaining meetings with employer bargaining representatives and so will not need to use right of entry processes for that purpose.

G2 Facilities

G2.1 The following specific facilities are outlined as a minimum. Agencies are advised that it is not intended that any existing facilities provided be reduced where they exceed the minima.

Minimum facilities for bargaining representatives	
Employee Meetings	Agencies to allow bargaining representatives to conduct a round of paid time meetings with employees they represent at the commencement of bargaining and another round of paid time meetings when in-principle agreement has been reached
	All other meetings to be conducted during unpaid work breaks
Meeting Facilities	Bargaining representatives will have access to agency meeting facilities subject to agency needs and without undue interference with normal business
Costs	Unless agreed otherwise by the relevant Agency Head, bargaining representatives will meet their own costs (including travel, accommodation and meals).
Use of emails	Bargaining representatives may access agency email addresses to communicate with the employees they represent
Attendance at Bargaining Meetings	Bargaining representatives will be provided with reasonable paid time to prepare for and participate in bargaining meetings, subject to operational requirements



Office equipment	Reasonable facilities will made available such as meeting rooms, communication facilities and other office equipment, subject to operational requirements.
Release of Employees from duty	Agency Heads will facilitate the release of employees to participate in bargaining having regard to the agency's practices and operational needs. In doing so, agencies should consult with relevant unions around the scope of the release and their union delegates involved
	Where an employee is released from duty to participate in bargaining, agencies should do so in such a way that it does not affect their existing and/or ongoing entitlements as an employee

Note: Complies with APS Bargaining Framework 2011

ipaaustralia.gov.au