

# COMCARE ENTERPRISE AGREEMENT 2011-2014



Nominal Expiry: 30/06/2014



**Australian Government**

**Comcare**

PUTTING YOU *FIRST*



## TABLE OF CONTENTS

---

**SECTION A—SCOPE 5** Title 5 Purpose 5 Coverage 6 Operation of agreement 6 Delegations 6 Supporting guides, guidelines and policies 6

---

**SECTION B—WORKING TOGETHER 7** Consulting on workplace issues 7 Working Together 7 Representation 8 Employee rights 8 Consultation 8 Dispute settlement procedures 9

---

**SECTION C— REMUNERATION 11** Pay increases 11 Productivity and performance improvements 11 Salary 12 Supported salary payments for employees with a disability 14 Payment of salary 15 Salary packaging 15 Superannuation 15 Higher Duties Allowance arrangements 16 Travel 16 Relocation assistance 18 Loss and damage to personal effects 18 Overtime 18 Restriction Allowance 19

---

**SECTION D—LEAVE ARRANGEMENTS 21** Recognition and portability of leave 21 Annual leave 21 Purchased leave 23 Career Interval Leave 23 Personal/carer's leave 24 Miscellaneous leave—with and without pay 28 Leave for Defence Reserve service 28 Maternity, adoption, foster carer's and supporting partner leave 29 Public holidays 31

---

**SECTION E— PERFORMANCE DEVELOPMENT 32** Performance and development framework 32 Learning and Development 33 Reward and recognition 34 Workplace diversity 34 Managing underperformance 34

---

**SECTION F—WORKING FLEXIBLY 36** Flexible working arrangements 36 Individual flexibility arrangement 39

---

**SECTION G—HEALTH AND SAFETY 41** Health and wellbeing program 42 Health and wellbeing reimbursement 42 Employee Assistance Program (EAP) 43 Vaccinations 43 Workplace responsibility allowance 43 Dealing with local accommodation changes 44

---

**SECTION H—SEPARATION 45** Termination at employer’s initiative 45 Right of review 46 Termination at employee’s initiative 46 Payments on death 47

---

**SECTION I—REDEPLOYMENT AND REDUNDANCY 48** Coverage 48 Definition of ‘Excess’ 48 Notification of potentially excess status 49 Consultation process 49 Retention periods 50 Voluntary redundancy 52

---

**ATTACHMENT A—APS SALARY RATES 56** Legal Advisers 57 Graduate 58 Trainee APS (Administrative) Salary Rates 59 Cadet APS Salary Rates 61

---

**DEFINITIONS 62**

---

**SIGNATURE PAGE 65**

---

## SECTION A—SCOPE

### TITLE

1. This Agreement shall be known as the *Comcare Enterprise Agreement 2011–2014*.

### PURPOSE

2. The broad aim of this Agreement is to support Comcare and its employees to meet the functions of partnering with workers, their employers and unions to keep workers healthy and safe, support workers when they are injured, reduce the incidence and cost of workplace injury and disease and to build a sustainable, high-performing Comcare.
3. This Agreement will support Comcare to deliver our 2015 plan by applying our strategic themes to everything we do:
  - > **Innovation**—new services and support for workers
  - > **Collaboration**—new initiatives partnering with stakeholders, business and governments
  - > **Impact**—improved, efficient business practices, capacity and capability to deliver better services.
4. This Agreement represents a commitment by Comcare and its employees to achieve a fair, equitable and productive workplace. This Agreement provides entitlements designed to assist employees in achieving an appropriate work life balance.

## COVERAGE

5. This Agreement applies to all non-SES employees within Comcare employed under the *Public Service Act 1999* (*Public Service Act*).
6. In accordance with section 53 of the *Fair Work Act 2009* (*Fair Work Act*) this Agreement binds:
  - a) the Chief Executive Officer of Comcare
  - b) all persons whose employment is, at any time when the Agreement is in operation, subject to the Agreement (in accordance with clause 5).

## OPERATION OF AGREEMENT

7. This Agreement will come into operation seven days after it is approved by Fair Work Australia. The nominal expiry date will be 30 June 2014.
8. This Agreement states the terms and conditions of employment of the employees covered by this Agreement other than terms and conditions applying under a Commonwealth law.
9. From the commencement of this Agreement, a party 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 the Agreement.

## DELEGATIONS

10. The Chief Executive Officer may delegate any or all of his or her powers and functions under this Agreement, including this power of delegation, and may do so subject to conditions.

## SUPPORTING GUIDES, GUIDELINES AND POLICIES

11. The operation of this Agreement is supported by those Agency policies, procedures, guides and guidelines which are incorporated by reference in this Agreement and will apply in the form they are in as at the time of any relevant action/decision.
12. In accordance with section 257 of the *Fair Work Act*, where this Agreement incorporates such policies, procedures, guides or guidelines, these policies, procedures, guides and guidelines are incorporated as in force from time to time.
13. If there is any inconsistency between the policies, procedures, guides and guidelines and the terms of this Agreement, the express terms of this Agreement will prevail.
14. Comcare agrees to follow the consultation procedures contained in clauses 18 and 19 of this Agreement before any changes are made to:
  - a) these policies, procedures, guides and guidelines incorporated by reference
  - b) policies, procedures, guides and guidelines which are developed to support the operation of this agreement in relation to matters affecting entitlements or conditions of employment.
15. Any dispute regarding policies, procedures guides and guidelines that support the Agreement will be addressed in line with the Dispute Settlement Procedures contained in this Agreement.

## SECTION B—WORKING TOGETHER

7

### CONSULTING ON WORKPLACE ISSUES

16. Comcare is committed to communicating and consulting with employees and their representatives, genuinely seeking their contribution prior to a decision being made.
17. Comcare is committed to working with employees and their representatives to develop innovative strategies to reduce our impact on the environment.

### WORKING TOGETHER

18. At the national level, Comcare will facilitate a consultative forum known as Working Together. Working Together will provide a means that enables effective representation for employees on workplace issues. Through the operation of Working Together, Comcare, employees and their representatives will work to:
  - a) improve the effectiveness of decision-making processes
  - b) improve communication throughout the organisation
  - c) support the objectives of this Agreement.
19. Where Comcare is proposing to change any policies, procedures, guides or guidelines about matters covered by this Agreement, consultation may include focus groups, secondary consultations and a range of feedback mechanisms.
20. Further information can be found in Comcare's *Working Together Guidelines*.

## REPRESENTATION

21. In any matter arising under this agreement, an employee may have an employee representative, which may be a union representative, support or represent them, and all relevant persons will deal with any such representative in good faith.
22. The role of the union, other workplace delegates and employee representatives will be respected and facilitated in accordance with the Comcare Agreement with CPSU on negotiation, communication and access to the Workplace.

## EMPLOYEE RIGHTS

23. Comcare recognises the importance of affording employees the right to representation and freedom of association in the workplace. Accordingly, all employees shall have:
  - > the right to reasonable paid time to seek and receive advice and assistance from their union or their other chosen representative in the workplace
  - > the right to reasonable paid time to attend meetings with their union or other chosen representative
  - > the right to be represented by their union or their other chosen representative on any employment issue
  - > the right to paid leave to attend any legal or industrial proceedings where the employee is a witness or party to the dispute
  - > the right to discuss employment-related issues with other employees in their workplace.

## CONSULTATION

24. This term applies if:
  - a) Comcare has made a definite decision to introduce a major change to production, program, organisation, structure, or technology in relation to its enterprise; and
  - b) the change is likely to have a significant effect on employees of the enterprise.
25. The employer must notify the relevant employees of the decision to introduce the major change.
26. The relevant employees may appoint a representative for the purposes of the procedures in this term.
27. If:
  - a) a relevant employee appoints, or relevant employees appoint, a representative for the purposes of consultation; and
  - b) the employee or employees advise Comcare of the identity of the representative;

Comcare must recognise the representative.

28. As soon as practicable after making its decision, Comcare must:
- a) discuss with the relevant employees:
    - i. the introduction of the change; and
    - ii. the effect the change is likely to have on the employees; and
    - iii. measures Comcare is taking to avert or mitigate the adverse effect of the change on the employees; and
  - b) for the purposes of the discussion—provide, in writing, to the relevant employees:
    - i. all relevant information about the change including the nature of the change proposed; and
    - ii. information about the expected effects of the change on the employees; and
    - iii. any other matters likely to affect the employees.
29. However, Comcare is not required to disclose confidential or commercially sensitive information to the relevant employees.
30. Comcare must give prompt and genuine consideration to matters raised about the major change by the relevant employees.
31. If a term in the enterprise agreement provides for a major change to production, program, organisation, structure or technology in relation to the enterprise of Comcare, the requirements set out in sub-clauses (2), (3) and (5) are taken not to apply.
32. In this term, a major change is likely to have a significant effect on employees if it results in:
- a) the termination of the employment of employees; or
  - b) major change to the composition, operation or size of Comcare's workforce or to the skills required of employees; or
  - c) the elimination or diminution of job opportunities (including opportunities for promotion or tenure); or
  - d) the alteration of hours of work; or
  - e) the need to retrain employees; or
  - f) the need to relocate employees to another workplace; or
  - g) the restructuring of jobs.
33. In this term, *relevant employees* means the employees who may be affected by the major change.
- DISPUTE SETTLEMENT PROCEDURES**
34. If a dispute relates to:
- a) a matter arising under the agreement; or
  - b) the *National Employment Standards*;
- this term sets out procedures to settle the dispute.
35. An employee who is a party to the dispute may appoint a representative for the purposes of the procedures in this term.

36. In the first instance, the parties to the dispute must try to resolve the dispute at the workplace level, by discussions between the employee or employees and relevant supervisors and/or management.
37. If discussions at the workplace level do not resolve the dispute, a party to the dispute may refer the matter to Fair Work Australia.
38. Fair Work Australia may deal with the dispute in two 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.
39. 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 Comcare 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.
40. The parties to the dispute agree to be bound by a decision made by Fair Work Australia in accordance with this term.

Note: If Fair Work Australia arbitrates the dispute, it may also use the powers that are available to it under the Fair Work 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. Therefore, an appeal may be made against the decision.

## SECTION C—REMUNERATION

### PAY INCREASES

41. With effect from commencement of this Agreement, all employees will receive a four per cent pay increase.
42. With effect from 1 July 2012, all employees will receive a three per cent pay increase.
43. With effect from 1 July 2013, all employees will receive a two per cent pay increase.
44. With effect from commencement of this Agreement, APS level 3 salaries will increase by one half of a percent in addition to the four percent increase in clause 41.
45. The new salary rates resulting from the pay increases are set out at Attachment A.

### PRODUCTIVITY AND PERFORMANCE IMPROVEMENTS

46. The pay increases and other enhancements to employment conditions included in this Agreement are in recognition of the productivity and performance improvements that have been agreed by the parties to the Agreement.
47. All employees will be paid a lump sum payment of 0.5 per cent of base annual salary on 1 July 2012 where the absenteeism rate for the 2011–2012 year is at least 1 day per person less than the rate for the 2010–2011 year. Where the absenteeism rate is at least 1.5 days less than the rate for the 2010–011 year, this lump sum payment will be 0.75 per cent of base annual salary.

48. All employees will be paid a lump sum payment on 1 July 2013 where the absenteeism rate for the 2012–2013 year meets one of the following criteria:
- (i) Where the lump sum bonus paid in clause 47 was 0.5 per cent and the absenteeism rate achieved for the year 2012–2013 is at least 2 days per person less than the rate for the 2010–2011 year, a lump sum payment of 0.5 per cent of base annual salary.
  - (ii) Where the lump sum bonus paid in clause 47 was 0.75 per cent and the absenteeism rate achieved is at least 2.5 days per person less than the rate for the 2010–2011 year for a lump sum payment of 0.5 per cent of base annual salary.
  - (iii) Where the lump sum bonus in clause 47 was not paid and the absenteeism rate achieved is at least 1 day per person less than the rate for the 2010–2011 year, a lump sum payment of 0.5 per cent of base annual salary.
  - (iv) Where the lump sum bonus in clause 47 was not paid and the absenteeism rate achieved is at least 2 days per person less than the rate for the 2010–2011 year, a lump sum payment of 1 per cent of base annual salary.
  - (v) Where the lump sum bonus in clause 47 was not paid and the absenteeism rate achieved is at least 2.5 days per person less than the rate for the 2010–2011 year, a lump sum payment of 1.25 per cent of base annual salary.

## SALARY

49. An employee who commences work with Comcare will normally be paid a salary at the minimum point of the salary range applicable to the classification of the job. However, the Chief Executive Officer may authorise payment of salary above the minimum point in that salary range, having regard to the experience, qualifications and skills of the employee.
50. Where, at the time of engagement, promotion or movement, an employee's salary is set at an incorrect salary point within the applicable salary scale, the Chief Executive Officer may determine (in writing) the payment of the employee's salary at the correct salary point.

## Salary on reduction

51. Where an employee agrees, in writing, to temporarily perform work at a lower classification level, the Chief Executive Officer may determine, in writing, that the employee shall be paid a rate of salary applicable to the lower classification for the period specified.
52. Where an employee agrees, in writing, to an ongoing reduction to a lower classification, salary will be determined by the Chief Executive Officer as though service at salary points that exceeded the minimum of the lower classification was service in the lower classification.

### Loading for casual employees

53. A person who is employed as a casual to perform duties on an irregular or intermittent basis, shall be paid 25 per cent loading in lieu of public holidays and all leave entitlements except for two days unpaid Personal (Carer's) Leave for each permissible occasion and Long Service Leave, which is covered by the provisions of the *Long Service Leave (Commonwealth Employees) Act 1976*.

### Salary Maintenance

54. At the discretion of the Chief Executive Officer, a person moving to Comcare whose salary in his or her previous APS agency exceeds the current maximum of the relevant classification level in this Agreement, may be maintained on their current salary until such time as his or her salary is absorbed by Comcare pay increases.

### Salary advancement

55. An employee will advance by one point within his or her classification level from 1 August in that year, where:

- (i) the employee is not already at the highest pay point for his or her classification level; and
- (ii) the employee has completed all of the employee requirements of the Performance Development Framework (PDF); and

- (iii) the employee has performed duties at the employee's substantive classification or above, within Comcare, for an aggregate of six months or more, or a shorter period determined by the CEO on a case by case basis, within the PDF cycle ended 30 June in that year; and

- (iv) the employee achieved a satisfactory performance rating at the end of the PDF cycle.

56. Subject to the approval of the Chief Executive Officer, where an employee's work performance and conduct has been assessed at the highest rating of the PDF, the employee will advance by two pay points from 1 August in that year, subject to the employee satisfying the other eligibility criteria set out in clause 1.

57. Where an employee received an unsatisfactory rating at the end of the PDF cycle ending 30 June in that year, and the Chief Executive Officer determines that the employee has subsequently attained and sustained a satisfactory standard of performance, the employee would from that date, be eligible for salary advancement in accordance with clause 1.

## Graduates

- 58. Comcare Graduates will commence within the Graduate Broadband. The salary will be set by the Chief Executive Officer having regard to the experience, qualifications, skills and pre-promotion salary of the employee.
- 59. On successful completion of the Graduate Program the Graduate will be advanced to the APS4 classification. The salary of these employees will be the base point of the APS4 classification level unless the Chief Executive Officer determines otherwise. They may then be moved at the relevant classification in the Comcare APS structure.

## Trainee APS (Administrative) and Cadet APS

- 60. Employees recruited as Trainee APS (Administrative) will be paid in accordance with the tables in Attachment A.
- 61. Upon successful completion of their training requirements, trainees will be allocated the classification of APS1 and paid at the minimum salary point for that classification.
- 62. Employees recruited as Cadet APS will be paid in accordance with the tables in Attachment A. A book and equipment allowance will be payable at the start of the academic year and at the commencement of the second semester. A full time study allowance will be paid during periods of study leave without pay; this is in addition to any payment for time worked during the academic year. A Cadet APS employee will be advanced to the APS3 classification and paid at the minimum salary point for that classification once their training has been satisfactorily completed.

## SUPPORTED SALARY PAYMENTS FOR EMPLOYEES WITH A DISABILITY

- 63. Employees who are eligible for a supported salary will be paid the applicable percentage of the relevant salary rate prescribed below for the work value they are performing. The minimum weekly amount payable to an employee eligible for a supported salary will not be less than the amount determined by Fair Work Australia from time to time. For more information on the support wage, staff should consult the Supported Wage System: Guidelines and Assessment Process.

### Supported salary rate percentages

Assessed capacity	% of prescribed salary rate
10%	10%
20%	20%
30%	30%
40%	40%
50%	50%
60%	60%
70%	70%
80%	80%
90%	90%

### PAYMENT OF SALARY

64. The fortnightly rate of pay will be based on the following formula:

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

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

### SALARY PACKAGING

66. An employee may choose to sacrifice part of his or her salary for non-monetary benefits.
67. Any fringe benefits tax (FBT) and administrative costs incurred as a result of the use of a salary packaging arrangement will be met by the employee. An employee who participates in a salary sacrifice arrangement will have his or her salary for all other purposes calculated as if the salary sacrifice arrangement had not been entered into.

### SUPERANNUATION

68. Existing Public Sector Superannuation (PSS) and Commonwealth Superannuation Scheme (CSS) arrangements will continue in accordance with the relevant legislation and requirements.
69. The default fund for Comcare is the Public Sector Superannuation Accumulation Plan (PSSap). The employer contribution for PSSap will be based on the employee's fortnightly contribution salary. The amount of PSSap employer contribution will be 15.4 per cent.
70. An employee may choose any approved superannuation fund as long as the fund can accept employer contributions by Electronic Funds Transfer (EFT) using a file generated through the Comcare payroll system. If an employee chooses a superannuation fund other than PSSap, the amount of the employer contribution will be equivalent to that applying to the PSSap. Any fees associated with EFT will be borne by the agency. 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).
71. For employees who take paid or unpaid parental leave (which includes maternity, maternal, adoption, foster carer's and supporting partner leave), employer contributions will be made for a period equal to a maximum of 52 weeks, in accordance with the rules of the appropriate superannuation scheme.

### HIGHER DUTIES ALLOWANCE ARRANGEMENTS

72. Where an employee is assigned, in writing, to temporarily perform duties of a higher classification Higher Duties Allowance (HDA) will be paid. This would normally be paid at the base rate of the higher classification.
73. The Chief Executive Officer may direct that the employee be paid salary at a pay point above the base rate. In considering such an approval, the Chief Executive Officer will take into account the employee's previous periods of temporary performance, the employee's performance, and relevant experience or skills.

### Recognition of service for HDA purposes

74. An employee will qualify for pay point advancement at a higher classification subject to:
- (i) completion of the requirements of the PDF; and
  - (ii) performance of duties by the employee at the higher classification or above, within Comcare, for an aggregate of six months or more within the PDF cycle ended 30 June in that year; and
  - (iii) achievement of an assessment of satisfactory at the end of the PDF cycle.
75. Where an employee has attained a higher pay point in accordance with the above provision, the employee will retain that pay point for future duties at the higher classification level.

### Recognition of HDA for pay point allocation on promotion

76. Subject to the service being recognised for HDA purposes in accordance with clauses 74 & 75, an employee who is promoted to a new classification level will have included, for the purpose of establishing eligibility for advancement to the next higher pay point in the employee's new classification, any previous period during which the employee was directed, in writing, to perform duties of that higher (or a higher) classification temporarily, or its equivalent.
77. Further information can be found in Comcare's *Remuneration Guidelines*.

### TRAVEL

78. Comcare's arrangements for domestic and overseas travel on official duty are designed to ensure that employees are not out of pocket for reasonable costs incurred for accommodation, meals and incidentals while travelling for work purposes.
79. The flexible working hours provisions of this Agreement will be used for work related travel. Overtime entitlements will not apply to travel undertaken within the bandwidth specified in clause 253. Overtime payments will only be paid in exceptional circumstances where an employee is directed to travel outside the bandwidth.
80. Travel arrangements, including the operation of working hours during travel, will be administered in accordance with the *CEO Instruction—Travel*.

### Domestic travelling arrangements and allowances

81. Where an employee is required to travel within Australia for work purposes and stay away from home overnight, reasonable costs incurred by the employee for accommodation, meals, transport and minor expenditure will be paid or reimbursed by Comcare. The normal means by which these costs will be paid by Comcare will be by an individual credit card issued to the employee.
82. The Chief Executive Officer may, from time to time, determine maximum amounts of expenditure that are considered to be reasonable for different locations within Australia. Further administration and process is described in the Comcare *CEO Instruction—Travel*.

### Reimbursement of fares

83. Where an employee becomes critically or dangerously ill while he or she is travelling on official business and a member of the employee's immediate family travels to visit the critically or dangerously ill employee, Comcare will, where requested by the employee and subject to satisfactory medical evidence, pay the employee an amount equal to the reasonable travel costs incurred by the relative.

### Child and family care costs

84. Where an employee is required to travel away from his or her normal location for business purposes, Comcare will reimburse reasonable expenses arising from additional child or other domestic care arrangements made necessary as a result of this travel.

### Overseas travel

85. Business class air travel (or recognised equivalent) will be used where an employee is required to travel overseas on official business. Where the journey involves travelling time (means the period between the latest recommended airport check-in time for the scheduled departure from the place where the journey originates and the scheduled time of arrival at the destination, excluding any rest period or stop over en route where the employee is not required to work) of more than 12 hours, the employee will not be required to attend work before having had a reasonable opportunity to recuperate, either at the destination or en route. An employee is taken to be at work during this rest period, with the rest period not to exceed:
- (i) 48 hours in respect of travel to Europe, the Middle East, Africa, the Americas or the West Indies; or
  - (ii) 24 hours in any other case.
86. Where an employee becomes ill while travelling overseas on official business, he or she may use his or her corporate credit card to pay for any necessary medical, dental or hospital treatment for the illness or, where the employee pays for any such treatment himself or herself, Comcare will reimburse the employee the cost of the treatment.

## Motor vehicle allowance

87. The Chief Executive Officer may authorise an employee to use a private car owned or hired by the employee at his or her own expense for official purposes, where the employee's manager considers that it will result in greater efficiency or involve less expense for Comcare. Such authorised employees will receive a Motor Vehicle Allowance of 75 cents per kilometre. The amount of allowance paid under this provision will not exceed the amount Comcare would have paid to transport the employee by the most efficient means.

## RELOCATION ASSISTANCE

88. Where an employee is required to work in a different geographic location for a period of three weeks (i.e. 21 days) or less, the provisions of clauses 81 to 87 will apply.
89. Where an employee is required to work in a different geographic location for a period in excess of three weeks from the day on which he or she commences work at the new location, the Chief Executive Officer will determine a package of assistance, following discussion with the employee, to meet reasonable additional costs incurred as a result of the employee being relocated.
90. Where an employee relocates as a result of a request by the employee, the Chief Executive Officer may elect to pay or reimburse all or part of reasonable costs incurred as a result of the employee being relocated.

## LOSS AND DAMAGE TO PERSONAL EFFECTS

91. The Chief Executive Officer may reimburse an employee for loss or damage to clothing or personal effects that are incurred in the course of his or her work.

## OVERTIME

92. It is expected that the flexible working hours provisions of this Agreement will normally be used to meet operational requirements within the bandwidth specified in clause 253.
93. An Executive Level employee is not eligible for overtime unless this is specially approved by the Chief Executive Officer.
94. Overtime is only payable for work performed at the direction of the Chief Executive Officer outside the business hours specified at clause 247.
95. For part-time employees overtime is payable for work performed at the direction of management in excess of the employee's agreed or specified hours of work.
96. Overtime will be paid at the following rates:
- > Monday to Saturday
    - time and one half for the first three hours
    - double time—after the first three hours
  - > Public Holidays
    - double time and one half which includes any payment for the employee's ordinary hours on the public holiday
  - > Sundays
    - double time.

97. At an employee's request, and with the agreement of the employee's manager, overtime entitlements can be taken as time off in lieu of an overtime payment. Time off in lieu will be calculated based on the overtime rates at clause 96 and will be recorded in accordance with clauses 249 and 250.

#### **Child and family care costs incurred by overtime**

98. Where an employee is directed to work overtime with less than 24 hours notice, Comcare will reimburse reasonable expenses arising from additional child or other domestic care arrangements made necessary as a result of this overtime.

#### **Hourly rate for calculation of overtime**

99. For the purpose of calculating the appropriate overtime rate, the hourly rate of pay is the employee's weekly rate of pay divided by 37.5.

#### **Rest relief after overtime**

100. Where an employee works overtime he or she will be entitled to an eight hour break plus reasonable travelling time before recommencing work without incurring any loss of pay. Where this break is not possible due to operational requirements, the employee will be paid overtime at the rate of double time for all work until the employee has had an eight hour break from work.

#### **Emergency overtime**

101. Where an employee is called into the workplace or another location to meet an emergency outside the bandwidth of hours specified in the Agreement, overtime will be paid at double time or double time and one half on public holidays and will include any time necessarily spent in travelling to and from the work site.

#### **Minimum payments for overtime requiring a return to duty**

102. Where an employee is required to perform overtime which is not continuous with his or her normal hours of duty, the minimum overtime payment for each attendance for overtime duty will be four hours. This provision does not apply to overtime that is in association with payment of Restriction Allowance.

#### **RESTRICTION ALLOWANCE**

103. Where the Chief Executive Officer directs an employee to be contactable and available to work for a specified period outside the span of hours 8:30 am to 5.00pm, the employee will be paid a Restriction Allowance at the rates set out in clause 105.
104. Where the Chief Executive Officer directs an Executive Level employee to be contactable and available to work for a specified period outside the span of hours 8:30 am to 5.00 pm, the Executive Level employee will be paid a restriction allowance at the rates set out in clause 105, calculated at the maximum pay point of the APS6 level.

105. Payment will be based on a rate of:
- (i) 7.5 per cent of the employee's hourly rate of salary for each hour restricted Monday to Friday
  - (ii) 10 per cent of his or her hourly rate of salary for each hour restricted on weekends
  - (iii) 15 per cent of his or her hourly rate of salary for each hour restricted on public holidays.
106. An employee is not paid Restriction Allowance during which they are in receipt of overtime payment.
107. Notwithstanding anything else in this Agreement, the minimum overtime for an employee who would otherwise be paid a Restriction Allowance but for the overtime is:
- (i) one hour at the overtime rates set out in clause 96 where the employee is not required to attend the workplace
  - (ii) three hours at the overtime rates set out in clause 96 where the employee is required to attend the workplace or another location.
108. For more information on Restriction Allowance staff should consult Comcare's *Restriction Guidelines*.

## SECTION D—LEAVE ARRANGEMENTS

### RECOGNITION AND PORTABILITY OF LEAVE

109. Annual leave and personal/carer's leave credits held at the date of commencement of this Agreement will be retained.
110. Where an employee joins Comcare on or after the commencement of the Agreement from an employer staffed under the Public Service Act, the *Parliamentary Service Act 1999* or from the ACT Government Service, accrued annual leave and personal/carer's leave (however described) held by the employee immediately before commencement with Comcare will be credited to the employee on commencement. An employee who on commencement would have a personal/carer's leave credit less than 10 days through this provision will have their personal/carer's leave balance adjusted to 10 days.
111. The leave provisions of this Agreement do not apply to a casual employee who is paid a loading in lieu of leave entitlements (other than long service leave) and public holidays, unless specifically stated otherwise.

### ANNUAL LEAVE

112. A full-time employee is entitled to 20 working days paid annual leave for each completed year of service, accruing daily and credited daily.
113. Pro-rata adjustments to annual leave credits will be made for part-time employees and for periods of leave without pay which do not count as service.

114. The taking of annual leave is subject to approval of the Chief Executive Officer, and the employee having available credits. Approval of the leave will not be unreasonably withheld.
115. An employee who receives compensation under the *Safety, Rehabilitation and Compensation Act 1988* (SRC Act) for more than 45 weeks accrues annual leave credits on a pro-rata basis based on the hours worked.

#### **Half Pay Annual Leave**

116. An employee may seek approval from the Chief Executive Officer to take annual leave at half pay. There is no minimum qualifying period for half pay annual leave, subject to available credits.

#### **Adjustment of period of leave**

117. Any public holiday which occurs during a period of annual leave will not be deducted from the employee's annual leave credits.

#### **Direction to take annual leave**

118. Where an employee has more than eight weeks (or the pro-rata equivalent for a part-time employee) of annual leave credits, the Chief Executive Officer may require the employee to take a period of annual leave of up to one quarter of the leave credits held at that time. Where the employee and the Chief Executive Officer are unable to

agree on the timing of the leave to be taken, the Chief Executive Officer may specify when the leave is to be taken as long as the employee is provided with at least four weeks notice.

#### **Annual leave cash out**

119. An employee may cash out an amount of annual leave provided that they have taken at least 15 days annual leave in the previous 12 months and the cashing out would not result in the employee's remaining accrued entitlement to annual leave being less than four weeks. An election to cash out leave must be made in writing.
120. Where an employee cashes out accrued annual leave they must be paid the full amount that would have been payable to the employee had the employee taken the leave.

#### **Cancellation of annual leave**

121. The Chief Executive Officer may cancel a period of annual leave before or after it has commenced, but must not unreasonably do so.
122. Where an employee has reasonably incurred costs as a result of the Chief Executive Officer cancelling a period of annual leave that are not otherwise recoverable, the employee will be reimbursed those costs.

#### **Payment on termination of employment**

123. An employee will be paid the value of any unused annual leave held by the employee at termination of employment.

### PURCHASED LEAVE

124. The Chief Executive Officer may approve a request for an employee to purchase one, two, three or four weeks additional leave per year.
125. Employees who elect to purchase leave will have an amount deducted from their annual salary, equal to the value of the leave which will be reflected in their fortnightly salary.
126. Purchased leave counts as service for all purposes. The employee's salary for superannuation purposes continues to be their full-time salary.
127. A request to purchase leave will not be approved if an employee has in excess of 40 days accumulated recreation leave.
128. Purchased leave must be used during a 12 month period starting from the commencement of approval to purchase additional leave.

### CAREER INTERVAL LEAVE

129. Career Interval Leave (CIL) provides ongoing employees with access to a self-funded extended absence from the workplace.

130. Following approval of the Chief Executive Officer, the employee will formally authorise Comcare to reduce by 20 per cent the annual salary to which the employee would otherwise be entitled for four years and to receive 80 per cent of that salary during this period. Following the completion of the four year work period the employee will be granted one year's leave of absence and will receive the accrued salary owing from the work period. This will be achieved by authorising the department to continue to pay 80 per cent of the annual salary to which the employee would otherwise be entitled if the employee were not on leave of absence.
131. Where an employee applies for CIL on the basis of personal reasons, the one year leave of absence will not count as service for any purposes. If applying for CIL under this clause the employee would not be permitted to make superannuation contributions during the one year leave of absence.
132. Where an employee applies for CIL to undertake developmental pursuits, study, or employment considered of benefit to their longer term APS career goals, or to the work of Comcare, the one year leave of absence will count as service for the purposes of accruing long service leave only. If applying for CIL under this clause the employee would be able to make superannuation contributions during the one year leave of absence.

133. In considering applications to join the scheme the manager may take account of the following factors:

- (i) the number of employees within Comcare who will be on leave in any one year
- (ii) the length of service of applicants
- (iii) the purpose of the leave of absence
- (iv) in following years, employees who have previously lodged an unsuccessful application to join the scheme.

134. An employee must not work for the Australian Public Service in any capacity during the one year CIL.

135. Further information can be found in Comcare's *Career Interval Leave Guidelines*.

## PERSONAL/CARER'S LEAVE

136. Personal/carer's leave is cumulative but will not be paid out on separation. Personal/carer's leave counts as service for all purposes and is credited in advance of the accrual period, excepting for the conditions outlined in clause 139.

### Personal/carer's leave credits

137. An ongoing employee who has not retained any personal/carer's leave credits under clauses 109 or 110 accrues 20 days personal/carer's leave credits (150 hours) on commencement with Comcare for the first year of service and accrues an additional 20 days after each subsequent 12 months of service.

138. Where an ongoing employee has retained personal/carer's leave credits under clauses 109 or 110, the employee accrues 20 days personal/carer's leave credits 12 months after they last received personal/carer's leave credits with the employee's previous employer and then an additional 20 days credits after each subsequent 12 months of service.

139. A non-ongoing employee who is employed for a specified period with Comcare will, for the first 12 months of service, accrue two and a half days personal/carer's leave credit after each of the first two months employment, and one and a half days per month of employment after that. The employee accrues 20 days of personal/carer's leave credits at the end of the first 12 months of service and a further 20 days of personal/carer's leave credits at the end of each subsequent 12 months of service.

140. If a non-ongoing employee becomes an ongoing employee after a period of continuous employment of less than 12 months, he or she will retain any unused personal/carer's leave credits held at the end of the period of non-ongoing employment and accrue 20 days personal/carer's leave credits at the commencement of the ongoing employment and then an additional 20 days of personal/carer's leave credits after each subsequent 12 months of service.

141. If a non-ongoing employee is engaged as an ongoing employee after a period of continuous employment of 12 months or more with Comcare, the employee will be deemed, for the purposes of accrual personal/carer's leave credits to have commenced ongoing employment at the end of the first 12 months of non-ongoing employment.

142. An employee who receives compensation under the SRC Act for more than 45 weeks accrues personal/carer's leave credits on a pro-rata basis based on the hours worked.
143. Where during an accrual period an employee has been absent, on leave without pay which does not count as service, for more than 30 calendar days, the employee's next accrual is deferred by one day for each day's absence.

#### **Access to personal/carer's leave**

144. Paid personal/carer's leave shall be available to an employee when he or she is absent:
- (i) due to personal illness or injury
  - (ii) for the purposes of providing 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
    - (a) a personal illness, or injury, of the member
    - (b) an unexpected emergency affecting the member.
145. The taking of all personal/carer's leave is subject to approval of the Chief Executive Officer. An employee must advise his or her manager as soon as reasonably practicable of his or her absence or his or her intention to be absent.
146. No more than two consecutive days of personal/carer's leave may be taken without appropriate evidence.
147. The maximum number of days of personal/carer's leave that may be taken without evidence of illness between accrual of personal/carer's leave credits is seven days.
148. The Chief Executive Officer may require that an employee provide evidence of illness for any period of personal/carer's leave occurring after the requirement is imposed.

#### **Anticipation of personal/carer's leave credit**

149. If an ongoing employee or non-ongoing employee with 12 months' service has exhausted his or her personal/carer's leave credits, the Chief Executive Officer may allow the employee to anticipate and deduct from up to 10 days of the following year's personal/carer's leave credits.

#### **Personal/carer's leave without pay**

150. Where an employee does not have access to any paid personal/carer's leave credits, including non-ongoing employees in receipt of the 25 per cent loading specified in clause 53, he or she is entitled to two days of unpaid personal/carer's leave for caring purposes for each occasion on which the employee is required to provide care or support to an immediate family or household member.
151. The Chief Executive Officer may grant personal/carer's leave without pay to an employee in other circumstances where the employee has no paid personal/carer's leave credits available.

#### **Maximum continuous personal/carer's leave**

152. There is no limit to the maximum continuous amount of personal leave for personal/carer's leave purposes which may be granted subject to available credits, acceptable evidence and, if required, the opinion of a medical practitioner nominated by Comcare.

153. A period of leave without pay granted in accordance with clause 151 does not count as service for any purpose, except long service leave.

#### **Employee illness while on annual leave or long service leave**

154. Clause 155 applies if an employee is unfit for duty because of personal illness or injury for a period of one day or more while on annual leave or long service leave.
155. On application of the employee, supported by a medical certificate, personal/carer's leave may be granted to the employee for the period. A reduction of annual leave or long service leave credit for an employee for a period of personal/carer's leave granted under this clause will be re-credited.

#### **Employee illness while on maternity, adoption or foster carer's leave**

156. An employee is not entitled to personal/carer's leave with pay for any period when the employee is entitled to leave with pay under the *Maternity Leave (Commonwealth Employees) Act 1973* or the adoption or foster carer's leave provisions in this Agreement.

#### **Invalidity retirement**

157. An employee will not, without the employee's consent be retired on invalidity grounds before the employee's personal/carer's leave credit on full pay is exhausted.

158. If a person, after retirement on invalidity grounds, is re-engaged because of action taken under section 75 of the *Superannuation Act 1976*, the person will be credited on re-engagement with the personal/carer's leave at his or her credit immediately before the termination of his or her employment.

#### **Recognition of prior service**

159. Prior service with organisations where the employee was previously employed under the *Public Service Act 1999*, the *Parliamentary Service Act 1999*, or from the ACT Government Service where there has been a break in service, may be recognised for personal leave purposes if the break in service is not more than two calendar months. Prior service will be recognised for long service leave purposes in accordance with the *Long Service Leave (Commonwealth Employees) Act 1976* if the break in service is not more than 12 months.
160. Where an employee is employed after having been deemed to have resigned following marriage under the former section 49 of the *Public Service Act 1922*, or is re-engaged following invalidity retirement or termination from the APS on the grounds of invalidity, the employee will be credited with any personal/carer's leave credits held at the time of ceasing the earlier period of employment.

### Compassionate leave

161. An employee is entitled to per occasion:
- (i) up to two days paid compassionate leave to spend time with an immediate family or household member who is suffering from a life threatening illness or injury; and
  - (ii) up to three days paid compassionate leave following the death of an immediate family or household member.
162. A casual employee may also access compassionate leave. Such leave will be unpaid leave.
163. Compassionate leave does not reduce an employee's personal/carer's leave credit.

### War service sick leave

164. Employees may be eligible to be granted war service sick leave while unfit for duty because of a war-caused condition. For more information on war service sick leave staff should consult Comcare's *Leave Guidelines*.

### Community service leave

165. Employees may access two days paid miscellaneous leave each calendar year to volunteer with community organisations such as:
- (i) registered Charities
  - (ii) schools
  - (iii) service organisations (Lions, Rotary, etc)
  - (iv) organisations registered on the GoVolunteer website.

166. In addition employees are entitled to be absent from work without pay to participate in eligible community services in accordance with Division 8 of Part 2–2 of Chapter 2 of the Fair Work Act. The amount of leave granted will take account of operational requirements.
167. Employees should provide reasonable notice and may be required to provide supporting documentation.

### Emergency services leave

168. Employees who are members of a state emergency service, fire fighting service, search and rescue unit or volunteer organisation that responds to an emergency call by an appropriate authority are able to access paid leave for that purpose including rest and recuperation time after such duty. Employees may be required to provide supporting documentation.
169. Employees will be entitled to unpaid leave to undertake emergency service duties for purposes of training and ceremonial duties.

### Leave for Aboriginal and Torres Strait Islander employees

170. Comcare 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, all full time and part time Aboriginal and Torres Strait Islander employees are entitled to five days paid leave each year to participate in NAIDOC Week activities or other cultural or ceremonial events.

**Cultural leave**

171. With the approval of the Chief Executive Officer, an employee may be granted up to two days paid religious or cultural leave in a calendar year to take part in activities associated with their culture or ethnicity.

**Union leave**

172. Employees who are union delegates and recognised representatives will be able to access reasonable leave with pay to attend union training, courses, seminars or conferences in accordance with the Miscellaneous Leave provisions of this Agreement and the Comcare agreement with CPSU on negotiation, communication and access to the workplace.

**MISCELLANEOUS LEAVE—WITH AND WITHOUT PAY**

173. The Chief Executive Officer, having regard to operational needs of Comcare may grant miscellaneous leave. The intention of miscellaneous leave is to provide flexibility to managers and employees by providing that leave may be made available, either with or without pay, for a variety of purposes.
174. Miscellaneous leave may be granted:
- (i) for the period requested or for another period
  - (ii) with or without pay
  - (iii) if the leave is without pay, to count as service or not count as service
  - (iv) subject to conditions.

**LEAVE FOR DEFENCE RESERVE SERVICE**

175. Miscellaneous Leave with pay may be granted to an employee, who is a member of the Defence Reserve, to undertake Defence Force training.
176. The minimum period of Defence Reserve leave available for training purposes shall be twenty working days per year which may accumulate and be taken over a two year period.
177. In addition to the provisions of clause 175, the Chief Executive Officer may grant additional miscellaneous leave, with or without pay, for Defence Force requirements, including deployment.
178. All miscellaneous leave granted for Defence Reserve purposes shall count as service for all purposes.
179. Irrespective of the preceding provisions, employees who are members of the Defence Reserve may also apply for annual leave, long service leave or flex leave for Defence Reserve purposes.

## MATERNITY, ADOPTION, FOSTER CARER'S AND SUPPORTING PARTNER LEAVE

### Maternity and maternal leave

180. Employees covered by this Agreement may be entitled to a maximum of 52 weeks maternity leave in accordance with the *Maternity Leave (Commonwealth Employees) Act 1973* (Maternity Leave Act).
181. An employee who is entitled to paid leave under the Maternity Leave Act is also entitled to two weeks of paid maternal leave, to be taken immediately following the first 12 weeks of maternity leave.
182. In order to provide more flexible provisions for maternity leave, an eligible employee may elect to spread the payment of paid maternity leave and maternal leave over a period of up to 28 weeks at a rate of half normal salary. The 14 weeks of leave (12 weeks under the Maternity Leave Act and 2 weeks maternal leave) count as service for all purposes. Any maternity leave/maternal leave in excess of 14 weeks does not count as service for any purpose and this administrative arrangement does not extend the total period of paid or unpaid maternity leave available under the Maternity Leave Act.
183. An employee is unable to access personal leave while on paid maternity and maternal leave.
184. Where maternity leave is taken over the period of Christmas shutdown, the leave will be taken to include the additional days provided as part of the shutdown.
185. Where an employee returns to work after a period of maternity, maternal, parental, adoption or foster carer's leave, the employee will be assigned to the duties previously performed or to alternative duties where appropriate to the employee's skills and classification.
186. Where the returning employee seeks part time employment, the employee's previous duties must be considered for conversion initially.
187. An employee returning to work from maternity, maternal or parental leave and who is the primary caregiver of the child may elect to work on a part time basis until the child has reached school age. This provision is subject to a minimum of 15 hours worked per week following a transitional period of up to one month to be negotiated between the employee and their manager.

### Adoption leave

188. An employee is entitled to up to 14 weeks paid adoption leave where:
- the employee has at least 12 months continuous service in the APS; and
  - the employee is the primary caregiver for the adopted child; and
  - the child has not lived with the employee for a continuous period of six months or more prior to the day of placement, or the proposed day of placement, of the child; and

- d. the child is not a child or step child of the employee or the employee's partner, unless that child has not been in the custody and care of the employee or the employee's partner for a significant period; and
- e. documentary evidence of approval for adoption must be submitted when applying for leave.

189. Adoption leave is available from one week prior to the date of placement of a child and must be taken within eight weeks of the child being adopted. Adoption leave with pay counts as service for all purposes.

190. Further information can be found in Comcare's Leave Guidelines.

#### **Foster carer's leave**

191. The provisions of clause 188 and 189 will also apply to long term (more than 12 months) formal fostering arrangements.

#### **Supporting partner leave**

192. An employee whose partner gives birth, adopts or fosters a child will be entitled to two weeks of paid or four weeks at half pay supporting partner leave immediately following the birth, adoption or fostering of a child.

193. Paid supporting partner leave counts as service for all purposes.

194. Documentary evidence must be provided when applying for supporting partner leave.

#### **Unpaid parental leave**

195. To enable an employee to care for a new born or newly adopted child under sixteen years of age, all employees are entitled to up to 52 weeks of unpaid parental leave. An employee who takes unpaid parental leave may request the Agency 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).

196. This provision does not apply to employees covered by the *Maternity Leave (Commonwealth Employees) Act 1973* to the extent that that Act is more beneficial.

197. The 52 weeks unpaid parental leave can be taken over a 66 week period, with the 66 week period commencing six weeks before the expected date of birth of the child or, in the case of an adopted child, on the day the employee assumes responsibility for the child.

198. Unpaid parental leave does not count as service for any other purpose except as provided in the Fair Work Act as amended from time to time.

## PUBLIC HOLIDAYS

199. An employee will observe public holidays in accordance with Part 2.2, Division 10 of the Fair Work Act without loss of pay:

- (i) 1 January, New Year's Day
- (ii) 26 January, Australia Day
- (iii) Good Friday and the following Monday
- (iv) 25 April, Anzac Day
- (v) In each state, the day observed to celebrate the anniversary of the birthday of the Sovereign
- (vi) 25 December, Christmas Day
- (vii) 26 December, Boxing Day
- (viii) any other day as declared by or under a law of the state or territory to be observed generally within that state or territory, or a region of that state or territory, as a public holiday by people who work in that state or territory or that region.

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

## Christmas leave

201. All Comcare offices will close for normal business purposes from close of business on the last working day before Christmas, with business resuming on the first working day after 1 January.

202. Employees will not be required to take leave for this period and will be paid in accordance with their ordinary hours of work. Where an employee is absent on leave on both sides of the close down, payment for the close down period will be in accordance with the entitlement for that form of leave (eg. long service leave half pay, payment will be half pay). On call and other arrangements to cover urgent business will be maintained over this period.

203. The former public service holiday (which was observed on the next normal working day after the Boxing Day holiday), will continue to be treated as a public holiday for the purpose of calculating working hours, overtime and restriction allowance.

## Long service leave

204. The minimum period of absence for which Long Service Leave (LSL) will be granted is 15 calendar days. A period of LSL cannot be broken by a period of annual leave except when provided for under the *Maternity Leave (Commonwealth Employees) Act 1973*.

## SECTION E— PERFORMANCE DEVELOPMENT

### PERFORMANCE AND DEVELOPMENT FRAMEWORK

205. The *Performance and Development Framework* (PDF) is a key tool to assist in delivering on Comcare's strategic focus of ensuring a sustainable, high-performing Comcare.
206. The Comcare (PDF) provides a mechanism to:
- (i) improve organisational performance by linking and aligning individual, team and organisational objectives and results to meet customer needs
  - (ii) embed innovation into leadership, culture, corporate strategy and people
  - (iii) recognise and reward employees for their performance and achievement on the job
  - (iv) manage any identified under-performance.
207. The PDF applies to all Comcare employees covered by this agreement. They are required to have a current and up-to-date Individual Action Plan (IAP).
208. All employees receive a performance rating at the end of the performance cycle which will reflect their performance and contribution to achievement of organisational goals.
209. During the first twelve months of this agreement, Comcare's PDF will be reviewed. Consultation on this review will occur in accordance with clauses 18 and 19 of the agreement.
210. Further information can be found in Comcare's PDF.

## LEARNING AND DEVELOPMENT

211. Comcare is committed to providing training and other learning and development opportunities for staff. Comcare recognises the importance of building individual and organisational capability to support Comcare to achieve outcomes.
212. All Comcare employees are required to develop an individual learning and development plan as part of their IAP.
213. Learning and development needs are identified and prioritised through Comcare's workforce planning process at the organisational level and include a range of options to support building:
- > core capabilities common to all staff e.g. writing skills, customer service
  - > supporting capabilities that are related to different job functions and roles undertaken by Comcare staff e.g. policy development
  - > technical skills that may be required for specific job roles e.g. legislative training
  - > continuing professional development.
214. Further information on Comcare capabilities can be found in the Comcare *Career and Capability Framework*. The *Career and Capability Framework* is developed in conjunction with the APSC Integrated leadership System (ILS) and identifies the capabilities required to achieve Comcare's specific business requirements. The *Career and Capability Framework* details Comcare's Work Level Standards (WLS).

215. Where an employee is a member of a professional organisation directly related to their position, Comcare will pay the fees associated with maintaining the membership.
216. Where an employee and their manager identify membership to a professional organisation as a development opportunity through the employee's IAP, Comcare may pay the fees associated with that membership.

### Studies assistance

217. Comcare will provide a centrally funded and administered studies assistance program. Employees can apply for studies assistance for a course of study that has been identified through the PDF process and recorded in their IAP learning and development plan as:
- (i) relevant to their current work within Comcare
  - (ii) building the skills or knowledge required for other work in Comcare and the wider APS environment.
- The delegate may approve reimbursement of study fees up to an amount of \$4,000 per year. Additional financial assistance above this limit may be approved by the Chief Executive Officer.
218. The delegate may approve reimbursement of study fees up to an amount of \$4,000 per year, subject to the successful completion of the approved course of study. Additional financial assistance above this limit may be approved by the Chief Executive Officer.
219. Further information on paid study leave and other support for study-related activities can be found in Comcare's *Studies Assistance Policy and Guidelines*.

## REWARD AND RECOGNITION

220. Comcare supports a reward and recognition program to effectively support meaningful, consistent, transparent and systematic recognition and reward of high achievement.
221. Reward and recognition in Comcare:
- > supports everyday, ongoing and informal recognition between colleagues
  - > provides a mechanism for both individual and team formal recognition
  - > provides a line of sight to Comcare's vision and values
  - > offers a simple and user-friendly nomination system which is available and open to all employees
  - > presents timely and relevant awards that are meaningful and personalised
222. Further information can be found in Comcare's Reward and Recognition Policy.

## WORKPLACE DIVERSITY

223. Comcare is committed to providing employment opportunities for people with a disability. Comcare will implement targeted strategies to improve the attraction and retention of employees with a disability by developing a disability action plan.

224. Comcare will make all reasonable endeavours to increase Aboriginal and Torres Strait Islander employment to meet the targets set by the Australian Government over the life of this agreement (current target is 2.7 per cent by 2015). In consultation with employees and their representatives, Comcare will implement targeted strategies to improve the attraction and retention of Aboriginal and Torres Strait Islander employees to meet this goal through the *Comcare Reconciliation Action Plan*.
225. Comcare will implement measures to improve the career pathways of Aboriginal and Torres Strait Islander employees, employees with a disability and employees from culturally and linguistically diverse backgrounds. This may include additional training, mentoring programs and cadetships.

## MANAGING UNDERPERFORMANCE

226. Comcare is committed to ensuring all employees receive regular, timely feedback on their performance. The early identification of underperformance is a key element of performance management.
227. Underperformance is identified when a manager makes an assessment that an employee's performance is not meeting required standards, and this is notified to the employee.
228. Where underperformance is identified, Comcare will initially provide coaching and counselling and work cooperatively with the employee in order to attain and sustain the standards required.

229. Comcare shall have regards to the following during any underperformance process:
- > streamlined and efficient processes
  - > natural justice and procedural fairness
  - > learning and development assistance for improving performance;
  - > active performance management as an integral part of the workplace culture
  - > performance measures and standards to be clearly defined.
230. The employee may be supported by a person of their choice during the process and for any meetings that are relevant to the process.
231. After a reasonable period of counseling and coaching, an employee whose performance continues to be unsatisfactory will be issued with a formal warning. The formal warning will set out:
- (i) details of the required standards for the duties the employee has been assigned and how the employee has failed to meet those standards
  - (ii) details of how the employee's performance will be assessed
  - (iii) the possible consequences if the employee has not attained and sustained the required standards by the end of the assessment period.
232. If the employee is assessed as not having met the required standard, the Chief Executive Officer will advise the employee of the finding and of the action that he or she proposes to take, which may include one or more of the following:
- (i) termination of employment
  - (ii) reduction in classification
  - (iii) reassignment of duties
  - (iv) some other appropriate action.
233. The employee will be given seven days from the receipt of the advice to respond to the findings and the action proposed by the Chief Executive Officer.
234. The Chief Executive Officer will advise the employee in writing of his or her decision and the action to be taken.
235. Further information can be found in Comcare's *Performance Development Framework*.

## SECTION F—WORKING FLEXIBLY

### FLEXIBLE WORKING ARRANGEMENTS

236. Comcare is committed to providing flexible working arrangements to assist employees in achieving an appropriate balance between work and personal lives.
237. Managers and employees will work to ensure the flexible working arrangements in this Agreement are used to achieve working patterns which provide a balance between work and personal lives, including caring responsibilities, identify opportunities for improved productivity and minimise the need for employees to work hours in excess of their usual hours.
238. If, in exceptional circumstances, employees are required to work in excess of their usual pattern of hours over a settlement period, managers will consult with the affected employees about:
- a) appropriate recompense (which may or may not be monetary and may include agreement by managers to compensatory time off for employees who do not have access to overtime)
  - b) how the additional workload might be shared between employees
  - c) the employee's responsibilities outside the workplace which may impact on their ability to change their usual pattern of work
  - d) the period over which additional hours will be required to be worked.

239. Workplace flexibilities that are available in this agreement include, but are not limited to:

- > part-time work
- > working from home arrangements
- > job sharing
- > flex time arrangements
- > use of individual flexibility arrangements
- > use of leave provisions.

240. If an employee applies to access any of the flexible working arrangement provisions of this Agreement and the request is denied, the manager must provide the employee with a reason for the decision in writing and consider and discuss with the employee any alternatives available under this Agreement that may address the employee's work life balance or caring responsibilities.

#### **Regular part-time work**

241. A part-time employee is one whose regular hours of work are less than 37.5 hours per week, as agreed between the employee and his or her manager.

242. Remuneration and other entitlements for part time employees, including leave, will be calculated as a pro-rata amount. For reimbursement of expense related allowances part-time employees will receive the same amount as full-time employees.

243. Part time employees can agree to work outside of their agreed hours and pattern of work. In such instances part time APS 1 to 6 employees will be entitled to flex time provisions.

244. Further information can be found in Comcare's *Part-Time Work Guidelines*.

#### **Working from home**

245. An employee and his or her manager may agree to the employee working from home on either a long term or casual basis. These arrangements will also apply to employees who are undertaking caring responsibilities. Comcare will look to provide access to working from home arrangements through the provision of appropriate work tools. All arrangements are subject to operational requirements being met.

#### **Job Sharing**

246. A manager may approve job sharing arrangements between two or more employees subject to operational requirements and the basis of the employees' applications. The details of any job sharing arrangement will be agreed in writing between the manager and the employees involved.

#### **Business hours**

247. Comcare's business hours are between 8.30 am and 5.00 pm Monday to Friday. The bandwidth for normal work for employees using flex time will be from 7.00 am to 7.00 pm, Monday to Friday.

### Recording attendance

248. For each day an employee works, the employee must record:

- i. the time when the employee starts work
- ii. the time when the employee finishes work
- iii. the time of any breaks.

249. An employee who works flex time arrangements must record attendance on a flex diary form or in another way approved by Comcare.

250. For all other employees the method of recording attendance is as agreed between the employee and his or her supervisor or, in the absence of agreement, as decided by the supervisor.

### Flex time

251. Employees at classification levels up to and including APS6 are eligible to use the flex time system.

252. The Chief Executive Officer may remove any employee from the flex time system and require the employee to work standard hours where the employee has not complied with his or her obligations under the flex time system.

253. The flex time system includes the following features:

- (b) the bandwidth for normal work will be from 7.00 am to 7.00 pm, Monday to Friday
- (c) ordinary hours of work for full time employees are 150 hours over a four week period (the 'settlement period'), i.e. an average of 37.5 hours per week

(d) employees will

- i. make themselves available for reasonable direction to work outside their agreed pattern of work
- ii. not be required to work more than five consecutive hours without a break of at least 30 minutes
- iii. not be required to work more than ten ordinary hours time on any one day.

(e) a 37.5 hour maximum flex credit carryover will be permitted to provide employees and managers with more flexibility in deciding when accrued time is able to be taken

(f) the maximum allowable flex debit will be 10 hours. Hours in excess of this debit will be deducted from an employee's pay except where the manager, as a result of the employee providing evidence of exceptional circumstances, agrees to allow the employee a further settlement period to reduce the debit to 10 hours or less.

254. An employee may only carry over flex credit in excess of 37.5 hours where the manager has expressly agreed to the additional hours worked. Excess flex credit should only occur in exceptional, non enduring circumstances.

255. Where an employee has excess flex credit the employee and their manager must identify and discuss appropriate action to reduce the flex credit within the next settlement period. In these circumstances no reasonable request for flex leave will be refused and managers may direct that flex leave be taken.

256. If the manager cannot envisage an opportunity for the employee to use the excess credits in the next settlement period, flex credits exceeding 37.5 hours may be cashed out at ordinary time rates.
257. Further information can be found in Comcare's *Flex Time Guidelines*.

#### **Arrangements for Executive Level employees**

258. Full time Executive Level employees are required to work an average of 37.5 hours per week and on occasion are required to work additional or irregular hours to meet work demands. Executive Level remuneration recognises the additional demands which may be placed upon them.
259. Managers of Executive Level employees will work with them to determine working arrangements and plan work to ensure that they do not work substantially in excess of weekly ordinary hours or more than occasionally commence and finish outside the bandwidth.
260. Where an Executive Level employee has been required to work additional hours, the employee's manager will negotiate with the employee to provide him or her with reasonable paid time off in lieu of hours worked.
261. Where an Executive Level employee has been required to work outside the bandwidth specified in clause 253(b), he or she will be entitled to an eight hour break plus reasonable travelling time before recommencing work without incurring any loss of pay. Where this break is not possible due to operational requirements, clause 238(a) will apply until the employee has had an eight hour break from work.

#### **Unauthorised absence**

262. Where an employee is absent from duty without approval, all pay and other benefits provided under this Agreement, including flex time, will cease to be available until the employee resumes duty or is granted leave. Where an employee is absent from duty without approval, without limiting the action that may be taken in relation to the absence, he or she will, on return to duty, revert to standard hours until his or her manager approves otherwise.

#### **INDIVIDUAL FLEXIBILITY ARRANGEMENT**

263. Comcare and an employee covered by this Agreement may agree to make an individual flexibility arrangement to vary the effect of terms of the Agreement if:
- a) the Agreement deals with one or more of the following matters:
    - i. arrangements about when work is performed
    - ii. overtime rates
    - iii. penalty rates
    - iv. allowances
    - v. remuneration
    - vi. leave loading
  - b) the Arrangement meets the genuine needs of the employer and employee in relation to one or more of the matters mentioned in paragraph (a)
  - c) the Arrangement is genuinely agreed to by the employer and employee.

264. Comcare will ensure that the terms of the individual flexibility arrangement:
- a) are about permitted matters under section 172 of the Fair Work Act
  - b) are not unlawful terms under section 194 of the Fair Work Act
  - c) result in the employee being better off overall than the employee would be if no arrangement was made.
265. Comcare will ensure that the individual flexibility arrangement:
- a) is in writing
  - b) includes the name of the employer and employee
  - 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
  - d) includes details of
    - i. the terms of the Agreement that will be varied by the arrangement
    - ii. how the arrangement will vary the effect of the terms
    - 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
  - e) states the day on which the arrangement commences.
266. Comcare will give the employee a copy of the individual flexibility arrangement within 14 days after it is agreed to.
267. Comcare or the 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.

## SECTION G—HEALTH AND SAFETY

47

268. Comcare is committed to taking all reasonably practicable steps to protect the health and safety of its employees and visitors, including contractors.

### **Health and safety consultation**

269. Comcare is committed to engaging in meaningful Work Health and Safety (WHS) consultation with its employees. To do this, Comcare will encourage and provide employees with the opportunity to express their views about WHS matters, to ask questions, raise concerns, provide options, make recommendations and be part of the problem-solving process. Consultation arrangements are detailed in Comcare's Health and Safety Management Arrangements (HSMAs).
270. The HSMAs are designed to meet the needs of Comcare's employees and ensure the safety of workplaces, taking into account the relevant hazards, organisational culture and workforce of Comcare. The HSMAs provide a framework which is supplemented by WHS policies and procedures.
271. The aim of Comcare's HSMAs is to:
- a) give effect to a more direct and consultative relationship between Comcare and its employees
  - b) enable effective cooperation in promoting, developing, implementing and continuously improving mechanisms to ensure WHS
  - c) set out the commitments and responsibilities of Comcare and its employees.

272. The HSMAs are developed in consultation with Comcare employees and the National Health and Safety Committee (NHSC).

### Addressing WHS issues

273. In line with the mechanisms in the HSMAs, Comcare will utilise the knowledge and capabilities of all stakeholders to improve health and safety in the workplace and to resolve WHS issues quickly and effectively. Comcare supports the following steps in addressing WHS issues:

- a) the person who identifies a potential WHS issue makes every attempt within their delegation to eliminate, minimise or control the hazard or risk
- b) if this is outside the person's control, they should take the matter up with their immediate supervisor/manager
- c) further assistance may be obtained including, for example:
  - i. obtaining assistance from People and Place Team
  - ii. utilising services provided by Comcare e.g. the Employee Assistance Program
  - iii. involving the HSR who may consult with the supervisor/manager and, if appropriate, with other stakeholders to resolve the hazard/issue.
- d) if it is not possible to resolve the matter at this level, either the supervisor/manager, the employee or the HSR may take it to the next level of management.

274. The HSMAs detail resolution procedures for issues unable to be resolved at this point.

275. If a dispute relating to a health and safety matter can not be satisfactorily resolved under the HSMAs or relevant WHS laws, the matter can be resolved using the dispute resolution procedures under this agreement.

### HEALTH AND WELLBEING PROGRAM

276. Comcare recognises the importance of a healthy workplace and agrees to facilitate initiatives to support this. Specific initiatives include promoting and conducting a health and wellbeing program each year. This program may include:

- a. opportunities for health assessments
- b. seminars/workshops on topics such as mental wellbeing, financial planning, heart health, relaxation, etc.

277. Participation in all Health & Wellbeing Program events is voluntary.

### HEALTH AND WELLBEING REIMBURSEMENT

278. To support employees with healthy lifestyle choices, the Chief Executive Officer will reimburse eligible employees up to \$300 per financial year to participate in health and wellbeing activities including, but not limited to, gymnasium and swimming pool fees, quit smoking programs, dietary memberships and sporting equipment.

279. For the purposes of clause 278, an eligible employee is:

- > an ongoing employee
- > a non-ongoing employee with at least three months continuous service with Comcare.

280. Employees will be required to provide evidence of the expenditure.

#### **EMPLOYEE ASSISTANCE PROGRAM (EAP)**

281. Comcare's workplace health strategy includes the provision of an employee assistance program (EAP) to assist employees and their immediate families should they be experiencing difficulty with work or personal issues. The service is at no cost to employees and their families, is offered through an independent external provider, and is confidential between the employee, family member and the EAP provider.

#### **VACCINATIONS**

282. Comcare will provide employees with opportunity to receive a seasonal influenza vaccination at no cost to the employee.

#### **WORKPLACE RESPONSIBILITY ALLOWANCE**

283. An allowance will be paid to employees on a fortnightly basis for undertaking the following workplace responsibility roles:

- a) First Aid Officers
- b) Chief Emergency and Floor Wardens
- c) Health and Safety Representatives.

284. The allowance payable under clause 283 will be:

- > \$25 per fortnight from 1 July 2011 or the commencement of this Agreement, whichever is the later
- > \$26 per fortnight from 1 July 2012
- > \$27 per fortnight from 1 July 2013.

285. Employees who are authorised by Comcare to undertake more than one of the above workplace responsibility roles will only receive one payment of the allowance per fortnight.

286. To be eligible for payment of the workplace responsibility allowance on the basis of undertaking the role of First Aid Officer, an employee must:

- a) possess the required qualifications for first aid at the minimum accreditation standard of Senior First Aid Certificate (Level 2 or equivalent)
- b) have continuing expertise commensurate with that training
- c) be appointed as a First Aid Officer by Comcare.

287. To be eligible for payment of the workplace responsibility allowance on the basis of undertaking the role of Emergency Warden, an employee must:
- be appointed as a Emergency Warden by Comcare
  - have successfully undertaken relevant emergency warden training.
288. To be eligible for payment of the Workplace Responsibility allowance on the basis of undertaking the role of Health and Safety Representative, an employee must:
- be elected as a Health and Safety Representative under the Comcare HSMA
  - have successfully undertaken the relevant Health and Safety Representative training.
291. Where disruption due to construction, building alteration, refurbishment or relocation of a workplace is significant and unavoidable to the extent that it disrupts working arrangements (including the potential to compromise the health and safety of employees) and where this cannot be minimised, including through temporary relocation, the Chief Executive Officer will, taking into account the duration and severity of the disruption, authorise miscellaneous leave with pay or working from home arrangements.

#### DEALING WITH LOCAL ACCOMMODATION CHANGES

289. When a decision is made to undertake construction, building alteration, refurbishment or relocation for a workplace, an accommodation committee will be formed in that workplace. The accommodation committee may provide recommendations in relation to alteration, refurbishment or relocation.
290. Where a decision has been made by Comcare that accommodation changes are required, a union nominated representative from the work area and the Health and Safety Representative for the relevant Designated Work Group (DWG) will form part of the accommodation committee. In circumstances where consultation is not possible due to emergency situations and/or time constraints Comcare will provide an explanation to all affected employees.

## SECTION H—SEPARATION

### TERMINATION AT EMPLOYER'S INITIATIVE

292. Notice of termination will be as provided for in the National Employment Standards (NES)(section 117). The minimum period of notice is set out below:

	Employee's period of continuous service with the employer at the end of the day the notice is given	Period
1	Not more than 1 year	1 week
2	More than 1 year but not more than 3 years	2 weeks
3	More than 3 years but not more than 5 years	3 weeks
4	More than 5 years	4 weeks

The period of notice will be increased by one week if the employee is over 45 years old and has completed at least two years of continuous service with the employer at the end of the day the notice is given.

293. Where an ongoing employee in Comcare is to have his or her employment terminated, the provisions of Section 29 of the Public Service Act will apply.
294. Where procedures outlined in this Agreement may lead to termination of employment on any of the allowable grounds under section 29 of the Public Service Act, those procedures must be followed before an ongoing employee's employment may be terminated.

295. Nothing in this Agreement prevents the Chief Executive Officer from terminating the employment of an employee for serious misconduct, without further notice or payment in lieu, in accordance with paragraph 123(1)(b) of the Fair Work Act. However, such termination will be subject to compliance with the procedures established by Comcare for determining whether an employee has breached the Code of Conduct under section 15 of the Public Service Act.

## RIGHT OF REVIEW

296. The sole and exhaustive rights and remedies of an employee in relation to termination of employment are those that the employee enjoys under:
- > Part 3.1 and Part 3.2 of Chapter 6 of the Fair Work Act
  - > other Commonwealth laws (including the *Constitution and Administrative Decisions (Judicial Review) Act 1977*)
  - > common law.
297. Termination of, or a decision to terminate employment, cannot be reviewed under the procedures for preventing and settling disputes or under the procedures for internal review of employment action included in this part.

## TERMINATION AT EMPLOYEE'S INITIATIVE

298. Where an employee terminates their employment, the notice of termination required to be given by an employee is the same as that required of an employer, except that there is no requirement on the employee to give additional notice based on the age of the employee concerned. The minimum period of notice is set out below:

	Employee's period of continuous service with the employer at the end of the day the notice is given	Period
1	Not more than 1 year	1 week
2	More than 1 year but not more than 3 years	2 weeks
3	More than 3 years but not more than 5 years	3 weeks
4	More than 5 years	4 weeks

299. If an employee fails to give the required notice Comcare may withhold from any monies due to the employee on termination, an amount not exceeding the amount the employee would have been paid in respect of the period of notice required by clause 298 less any period of notice actually given by the employee.
300. The obligation to provide notice by an employee may be waived by the Chief Executive Officer.
301. Where an employee resigns on a public holiday, they will be deemed to have resigned on the last working day prior to the public holiday.

## PAYMENTS ON DEATH

302. Where an employee dies or is presumed to have died on a particular date, the Chief Executive Officer may authorise payment, to be made to the dependants or partner or the legal representative of the employee, of the amount that would have been paid if the employee had ceased employment by resignation or retirement.

## SECTION I—REDEPLOYMENT AND REDUNDANCY

### COVERAGE

303. These provisions apply to employees who are ongoing APS employees. These provisions do not apply to:

- (i) an ongoing employee who is serving a probationary period
- (ii) a non-ongoing employee.

### DEFINITION OF 'EXCESS'

304. An employee is excess if:

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

### NOTIFICATION OF POTENTIALLY EXCESS STATUS

305. In situations where there are, or are likely to be, excess employees, Comcare will comply with this agreement and any relevant APS Policy on redeployment.
306. When the Chief Executive Officer is aware that an employee is likely to become excess, the Chief Executive Officer will at the earliest practicable time advise the employee of the situation.
307. Where 15 or more employees are likely to become excess, Comcare will comply with the relevant provisions of sections 530 and 531 of the Fair Work Act.

### CONSULTATION PROCESS

308. Comcare will consult with employees and their representatives throughout any organisational change in accordance with clauses 24 to 33 of this agreement.
309. Discussions with the potentially excess employee and, where they choose their representatives, will be held to consider:
- (i) measures which might be taken to resolve the situation, including redeployment opportunities for the employee within Comcare, at or below the employee's classification level
  - (ii) referral to an appropriate redeployment service provider
  - (iii) whether voluntary redundancy might be appropriate.

310. The Chief Executive Officer may, prior to the conclusion of the discussions set out at clause 308, invite employees who are not potentially excess to express interest in voluntary redundancy, where those redundancies would permit the redeployment of employees who are potentially excess.
311. The Chief Executive Officer will identify the employees who are excess to Comcare's requirements after the discussions referred to in clause 308 have occurred. The period of these discussions will not exceed one month (or lesser period as agreed with the employee) after the Chief Executive Officer has advised the employee under clause 305. The Chief Executive Officer may then immediately advise those employees in writing that they are excess.
312. The Chief Executive Officer will then establish with the identified excess employees which employees want to be offered voluntary redundancy immediately and which employees seek redeployment. An employee seeking redeployment will be advised in writing that he or she is excess (if this has not already occurred) and immediately referred to an appropriate redeployment service provider for assistance.

## RETENTION PERIODS

313. Other than when the provisions of clause 322 apply, unless the employee agrees, an excess employee will not have his or her employment terminated until the employee's retention period has elapsed:

- (i) for an employee who was an ongoing employee of Comcare on 9 October 2000, and who has remained an ongoing employee of Comcare continuously since that date, the retention period is:
  - (a) 13 months where an employee has 20 or more years of service or is over 45 years of age; or
  - (b) seven months for other employees
    - (ii) for an employee who becomes an ongoing employee of Comcare after 9 October 2000 the retention period is seven months
    - (iii) An employee who becomes an ongoing employee as the result of the filling of a vacancy which had been advertised in the Gazette before 9 October 2000, will be considered to be an ongoing employee for the purposes of sub-clause (i).

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

- (i) the day the employee is advised in writing by the Chief Executive Officer that he or she is an excess employee
- (ii) one month after the day on which the Chief Executive Officer invites the employee in writing to accept voluntary redundancy.

315. During the retention period the Chief Executive Officer:

- (i) will continue to take all reasonable steps, consistent with the efficient management of Comcare, to assign new duties to an excess employee, at the employee's classification level within Comcare
- (ii) assist an excess employee to pursue redeployment opportunities in other APS agencies
- (iii) may, with four weeks notice, allocate a lower classification to the employee where a suitable vacancy at a lower classification level is available
- (iv) will continue to consult with an excess employee and, where they choose their representatives throughout the retention period.

316. If an employee is entitled to a redundancy payment in accordance with the NES, the relevant period in clause 313 above is reduced by the number of weeks redundancy pay that the employee will be entitled to under the NES on termination, as at the expiration of the retention period (as adjusted by this clause).

## Income maintenance

317. Where an excess employee is reduced in classification before the end of the retention period, the employee will continue to be paid at his or her previous classification for the balance of the retention period.

318. Income maintenance payments will include HDA where the employee has been in receipt of that allowance for a continuous period of 12 months immediately preceding the date on which the employee:

- (i) is notified that he or she is excess; or
- (ii) receives a notice reducing the employee's classification.

Provided the employee would have continued to perform the duties at the higher classification but for the excess staff situation.

#### **Redeployment assistance**

319. An excess employee is entitled to reasonable leave with full pay to attend necessary employment interviews.

320. An excess employee may request assistance in meeting reasonable travel and incidental expenses incurred in seeking alternative employment where they are not met by the prospective employer.

321. Where it is necessary as a result of a reassignment of duties for an excess employee to move the employee's household to a new locality, the employee will be entitled to payment or reimbursement of reasonable expenses as if the employee was being promoted.

#### **Early termination during retention period**

322. Where the Chief Executive Officer believes there is insufficient productive work available for an excess employee within Comcare during the retention period, the Chief Executive Officer may, under section 29 of the Public Service Act:

- (i) with the agreement of the employee, terminate the employment of the employee at any time
- (ii) subject to clause 323, terminate the employment of the employee without the agreement of the employee.

323. The date of effect of a termination of employment under sub-clause 322(ii) cannot be earlier than the day following the day on which the employee has completed a minimum of seven months of his or her retention period.

324. Upon termination under clause 322, the employee will be paid a lump sum comprising:

- a. the balance of the retention period (as shortened for the NES under sub-clause 324(b) and this payment will be taken to include the payment in lieu of notice of termination of employment; and
- b. an additional redundancy payment equal to the amount the retention period was shortened by under 324(a) above (i.e. the NES component).

## VOLUNTARY REDUNDANCY

325. Where the Chief Executive Officer invites an employee in writing to accept voluntary redundancy, the employee will have one month in which to accept the offer. Where the offer is accepted the Chief Executive Officer will not give notice of termination of employment before the end of that period without the agreement of the employee.
326. To allow the employee to make an informed decision on whether to accept the offer of voluntary redundancy the employee must be given information on the amount of his or her severance pay, pay in lieu of notice and leave credits; the amount of his or her accumulated superannuation contributions; options open to him or her concerning superannuation; and the taxation rules applying to the various payments (this does not include financial advice).
327. An employee who is invited in writing to accept voluntary redundancy will be entitled to a maximum reimbursement of \$770 to seek financial and lifestyle advice.
328. The Chief Executive Officer may make an offer of voluntary redundancy to an excess employee within two months of referral to an appropriate redeployment service provider, and, if not already made, will make an offer at the end of that period to an employee who has not been redeployed.
329. Only one offer of voluntary redundancy will be made to an excess employee.

330. An excess employee who declines an offer of voluntary redundancy will immediately be referred to an appropriate redeployment service provider. An excess employee who does not accept an offer of voluntary redundancy within the one month period will be taken as having declined the offer and will immediately be referred to an appropriate redeployment service provider.

### Period of notice

331. Where an employee accepts an offer of voluntary redundancy, the Chief Executive Officer may terminate the employee by giving the employee written notice of termination of employment under section 29 of the Public Service Act. The period of notice will be four weeks (or five weeks for an employee over 45 years of age and with at least two years of continuous service).
332. Where the Chief Executive Officer directs, or the employee requests, the employee may have his or her employment terminated during the notice period. Where the 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.

### Redundancy payments

333. An employee who has his or her employment terminated by the CEO under section 29 of the Public Service Act as a result of accepting an offer of voluntary redundancy made in accordance with clause 325 is entitled to be paid a sum equal to two weeks salary for each completed year of continuous service, plus a pro rata payment for completed months of service since the last completed year of service.

334. The minimum sum payable will be four weeks salary and the maximum will be 48 weeks salary and is also subject to any minimum amount the employee is entitled to under the NES. The following table provides a comparison between the NES and Comcare Redundancy provisions.

Length of service	NES redundancy	Comcare redundancy
Less than 1 year	Nil	4 weeks
At least 1 year but less than 2 years	4 weeks	4 weeks
At least 2 years but less than 3 years	6 weeks	4 weeks + pro rata for completed months of service
At least 3 years but less than 4 years	7 weeks	6 weeks + pro rata
At least 4 years but less than 5 years	8 weeks	8 weeks + pro rata
At least 5 years but less than 6 years	10 weeks	10 weeks + pro rata
At least 6 years but less than 7 years	11 weeks	12 weeks + pro rata
At least 7 years but less than 8 years	13 weeks	14 weeks + pro rata
At least 8 years but less than 9 years	14 weeks	16 weeks + pro rata
At least 9 years but less than 10 years	16 weeks	18 weeks + pro rata
At least 10 years but less than 11 years	12 weeks	20 weeks + pro rata
11 years or more	12 weeks	22 weeks up to a maximum of 48 weeks

335. The redundancy payment will be calculated on a pro rata basis for any period where an employee has worked part-time hours during his or her period of service and the employee has less than 24 years full time service.

336. Subject to clauses 337 to 339, service for severance pay purposes means:
- (i) service in Comcare
  - (ii) Government service as defined in section 10 of the *Long Service Leave (Commonwealth Employees) Act 1976*
  - (iii) service with the Commonwealth (other than service with a joint Commonwealth-State body corporate in which the Commonwealth does not have a controlling interest) which is recognised for long service leave purposes
  - (iv) service with the Australian Defence Forces
  - (v) APS service immediately preceding deemed resignation under the repealed section 49 of the *Public Service Act 1922*, if the service has not previously been recognised for severance pay purposes
  - (vi) 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 on work within a function is engaged as a result of the transfer of that function to the APS and such service is recognised for long service leave purposes.
337. For earlier periods of service to count as service for severance pay purposes there must be no breaks between the periods of service, except where:
- (i) the break in service is less than one month and occurs where an offer of employment with the new employer was made and accepted by the employee before ceasing employment with the preceding employer; or
  - (ii) 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*.
338. Any period of service which ceased by way of redundancy; retirement or termination on grounds of invalidity; inefficiency or loss of qualifications; forfeiture of office; dismissal; termination of probationary appointment for reasons of unsatisfactory service; or voluntary retirement at or above the minimum retiring age applicable to the employee or with the payment of an employer-financed retirement benefit will not count as service for redundancy pay purposes.
339. Absences from work which do not count as service for long service leave purposes will not count as service for severance pay purposes.

**Rate of payment—redundancy**

340. For the purpose of calculating any payment under clause, 333 salary will include:
- (i) the employee's salary; and
  - (ii) HDA, where the employee has been receiving HDA for a continuous period of at least 12 months immediately preceding the date on which the employee is given notice of termination of employment; and
  - (iii) other allowances in the nature of salary which are paid during periods of annual leave and on a regular basis, excluding allowances which are a reimbursement for expenses incurred, or a payment for disabilities associated with the performance of duty.

**Structural change**

341. Where a separate payment would facilitate the speedy resolution of major organisational change and it can be demonstrated that special circumstances exist, the Chief Executive Officer may, with the agreement of the Minister for Workplace Relations, make a separate financial payment in addition to and separate from the entitlements prescribed in these Redeployment and Redundancy provisions in this agreement for excess employees.

**Involuntary termination of employment following a retention period**

342. The Chief Executive Officer may, under section 29 of the Public Service Act 1999, terminate the employment of an excess employee at the end of the employee's retention period.
343. The Chief Executive Officer will not terminate the employment if the employee has not been invited to accept a voluntarily redundancy as per clause 325 or has elected to accept voluntarily redundancy but the Chief Executive Officer refused to approve it.
344. An excess employee will be given four weeks notice (or five weeks notice for an employee over 45 with at least two years of continuous service) where it is proposed to terminate the employment of an excess employee. Where possible, this notice period will be concurrent with the retention period.

## ATTACHMENT A—APS SALARY RATES

Classification		4% payrise from commencement of the Agreement	3% payrise from 1 July 2012	2% payrise from 1 July 2013
APS 1	APS1.1	\$ 41,526	\$ 42,772	\$ 43,627
	APS1.2	\$ 42,638	\$ 43,917	\$ 44,795
	APS1.3	\$ 44,374	\$ 45,705	\$ 46,619
	APS1.4	\$ 45,422	\$ 46,785	\$ 47,720
APS 2	APS2.1	\$ 46,662	\$ 48,062	\$ 49,023
	APS2.2	\$ 47,876	\$ 49,313	\$ 50,299
	APS2.3	\$ 49,105	\$ 50,578	\$ 51,589
	APS2.4	\$ 50,319	\$ 51,829	\$ 52,866
	APS2.5	\$ 51,670	\$ 53,220	\$ 54,285
APS 3	APS3.1	\$ 53,257	\$ 54,855	\$ 55,952
	APS3.2	\$ 54,596	\$ 56,234	\$ 57,359
	APS3.3	\$ 56,002	\$ 57,682	\$ 58,835
	APS3.4	\$ 57,811	\$ 59,546	\$ 60,737
APS 4	APS4.1	\$ 59,350	\$ 61,130	\$ 62,353
	APS4.2	\$ 60,880	\$ 62,706	\$ 63,960
	APS4.3	\$ 62,428	\$ 64,301	\$ 65,587
	APS4.4	\$ 64,908	\$ 66,856	\$ 68,193
APS 5	APS5.1	\$ 66,926	\$ 68,934	\$ 70,313
	APS5.2	\$ 68,800	\$ 70,864	\$ 72,281
	APS5.3	\$ 70,068	\$ 72,170	\$ 73,613
	APS5.4	\$ 71,798	\$ 73,952	\$ 75,431
APS 6	APS6.1	\$ 74,592	\$ 76,830	\$ 78,366
	APS6.2	\$ 77,437	\$ 79,760	\$ 81,356
	APS6.3	\$ 80,415	\$ 82,827	\$ 84,484
	APS6.4	\$ 82,770	\$ 85,254	\$ 86,959
EL 1	EL1.1	\$ 92,255	\$ 95,023	\$ 96,923
	EL1.2	\$ 96,090	\$ 98,972	\$100,952
	EL1.3	\$100,702	\$103,723	\$105,798
	EL1.4	\$105,315	\$108,474	\$110,643
	EL1.5	\$109,926	\$113,224	\$115,488
EL 2	EL2.1	\$115,419	\$118,882	\$121,259
	EL2.2	\$120,603	\$124,221	\$126,705
	EL2.3	\$125,786	\$129,559	\$132,151
	EL2.4	\$130,970	\$134,899	\$137,597

Note: Annual Leave Loading has been subsumed into salary

## LEGAL ADVISERS

Local Title	APS Classification	4% payrise from commencement of the Agreement	3% payrise from 1 July 2012	2% payrise from 1 July 2013
Legal Adviser APS 4	LA 4.1	\$60,880	\$62,706	\$63,960
	LA 4.2	\$62,428	\$64,301	\$65,587
	LA 4.3	\$64,908	\$66,856	\$68,193
Legal Adviser APS 5	LA 5.1	\$68,800	\$70,864	\$72,281
	LA 5.2	\$70,068	\$72,170	\$73,613
	LA 5.3	\$71,798	\$73,952	\$75,431
Legal Adviser APS 6	LA 6.1	\$74,592	\$76,830	\$78,366
	LA 6.2	\$77,437	\$79,760	\$81,356
	LA 6.3	\$82,477	\$84,952	\$86,651
	LA 6.4	\$87,989	\$90,629	\$92,441
Senior Legal Advisor (EL 1)	SLA.1	\$95,023	\$97,873	\$99,831
	SLA.2	\$99,868	\$102,864	\$104,921
	SLA.3	\$104,713	\$107,855	\$110,012
	SLA.4	\$109,559	\$112,846	\$115,102
	SLA.5	\$114,404	\$117,836	\$120,193
Principal Legal Advisor (EL 2)	PLA.1	\$119,423	\$123,006	\$125,466
	PLA.2	\$124,019	\$127,740	\$130,294
	PLA.3	\$128,615	\$132,473	\$135,123
	PLA.4	\$133,209	\$137,206	\$139,950

Note: Annual Leave Loading has been subsumed into salary

## GRADUATE

Local Title	APS Classification	4% payrise from commencement of the Agreement	3% payrise from 1 July 2012	2% payrise from 1 July 2013
Graduate	APS 2.1	\$46,662	\$48,062	\$49,023
	APS 2.2	\$47,876	\$49,313	\$50,299
	APS 2.3	\$49,105	\$50,578	\$51,589
	APS 2.4	\$50,319	\$51,829	\$52,866
	APS 2.5	\$51,670	\$53,220	\$54,285
	APS 3.1	\$53,003	\$54,593	\$55,684
	APS 3.2	\$54,335	\$55,965	\$57,084
	APS 3.3	\$55,734	\$57,406	\$58,554
	APS 3.4	\$57,535	\$59,261	\$60,446
	APS 4.1	\$59,350	\$61,130	\$62,353
	APS 4.2	\$60,880	\$62,706	\$63,960
	APS 4.3	\$62,428	\$64,301	\$65,587
	APS 4.4	\$64,908	\$66,856	\$68,193

Note: Annual Leave Loading has been subsumed into salary

### TRAINEE APS (ADMINISTRATIVE) SALARY RATES

With effect from commencement of the Agreement—4% pay increase

Highest year of schooling completed	Year 10	Year 11	Year 12 \$ per annum
School leaver	\$11,608 (50%)**	\$14,354 (33%)**	
School leaver	\$13,492 (33%)**	\$16,160 (25%)**	\$19,688
Plus 1 year out of school*	\$16,160	\$19,688	\$22,983
Plus 2 years	\$19,688	\$22,983	\$26,748
Plus 3 years	\$22,983	\$26,748	\$30,514
Plus 4 years	\$26,748	\$30,514	\$30,514
Plus 5 years or more	\$30,514	\$30,514	\$30,514

\* For the purposes of this table, "out of school" will refer only to periods out of school beyond Year 10, and will be deemed to

- > include any period of schooling beyond Year 10 which was not part of nor contributed to a complete year of schooling
- > include any period during which a Trainee repeats in whole or part of a year beyond Year 10
- > not include any period during a calendar year in which schooling is completed, and
- > have effect on an anniversary date being 1 January each year.

\*\* Figures in brackets indicate the average proportion of time spent in approved training to which the associated wage rate is applicable. Where not specifically indicated, the average proportion of time spent in structured training which has been taken into account in setting the rate is 20 percent.

Note: Annual Leave Loading has been subsumed into salary

## With effect from 1 July 2012—3% pay increase

Highest year of schooling completed	Year 10	Year 11	Year 12 \$ per annum
School leaver	\$11,957 (50%)**	\$14,785 (33%)**	
School leaver	\$13,897 (33%)**	\$16,644 (25%)**	\$20,279
Plus 1 year out of school*	\$16,644	\$20,279	\$23,672
Plus 2 years	\$20,279	\$23,672	\$27,550
Plus 3 years	\$23,672	\$27,550	\$31,429
Plus 4 years	\$27,550	\$31,429	\$31,429
Plus 5 years or more	\$31,429	\$31,429	\$31,429

## With effect from 1 July 2013 – 2% pay increase

Highest year of schooling completed	Year 10	Year 11	Year 12 \$ per annum
School leaver	\$12,196 (50%)**	\$15,080 (33%)**	
School leaver	\$14,175 (33%)**	\$16,977 (25%)**	\$20,684
Plus 1 year out of school*	\$16,977	\$20,684	\$24,146
Plus 2 years	\$20,684	\$24,146	\$28,101
Plus 3 years	\$24,146	\$28,101	\$32,058
Plus 4 years	\$28,101	\$32,058	\$32,058
Plus 5 years or more	\$32,058	\$32,058	\$32,058

\* For the purposes of this table, "out of school" will refer only to periods out of school beyond Year 10, and will be deemed to

- > include any period of schooling beyond Year 10 which was not part of nor contributed to a complete year of schooling
- > include any period during which a Trainee repeats in whole or part of a year beyond Year 10
- > not include any period during a calendar year in which schooling is completed, and
- > have effect on an anniversary date being 1 January each year.

\*\* Figures in brackets indicate the average proportion of time spent in approved training to which the associated wage rate is applicable. Where not specifically indicated, the average proportion of time spent in structured training which has been taken into account in setting the rate is 20 percent.

Note: Annual Leave Loading has been subsumed into salary

### CADET APS SALARY RATES

Classification	4% payrise from commencement of the Agreement	3% payrise from 1 July 2012	2% payrise from 1 July 2013
Cadet APS (Practical Training)	\$40,192.88	\$41,398.67	\$42,226.64
	\$41,526.16	\$42,771.94	\$43,627.38
	\$42,637.92	\$43,917.06	\$44,795.40
	\$44,373.68	\$45,704.89	\$46,618.99

For more information on Cadet APS employees salary and allowances staff should consult Comcare's *Remuneration Guidelines*

Note: Annual Leave Loading has been subsumed into salary

## DEFINITIONS

<b>Agency</b>	means a Department, an executive Agency, or a Statutory Agency as defined in the Public Service Act
<b>APS</b>	Australian Public Service
<b>Casual</b>	Non-ongoing employees engaged for duties under the <i>Public Service Act 1999</i> s22 (2)(c) that are irregular or intermittent and in receipt of a loading of 25 per cent of salary in lieu of public holidays and paid leave
<b>Chief Executive Officer</b>	the Chief Executive Officer of Comcare
<b>Classification</b>	means the remuneration level assigned as per the salary rates at Attachment A
<b>Deemed resignation</b>	resignation under the repealed Section 49 of the <i>Public Service Act 1922</i>
<b>Dependant</b>	in relation to an employee means: the spouse of the employee; and/or a child or parent of the employee, or of the spouse of the employee, being a child or parent who ordinarily resides with the employee and who is wholly or substantially dependent upon the employee
<b>Dependant child</b>	in relation to an employee, means a child who is a dependant of the employee and less than 21 years of age
<b>Different locality</b>	in relation to the Redeployment and Redundancy provisions of this Agreement, a reference to duties being performed in a different locality means that the duties performed by the employee have been moved from one capital city to another, or on a similar scale, such as from a country town to a capital city, and it would be necessary and reasonable for the employee to move house in order to maintain employment
<b>Evidence of illness</b>	means a certificate provided by a registered health practitioner or if it is not reasonably practicable for the employee to give the employer a medical certificate, a statutory declaration made by the employee; or other evidence approved by the Chief Executive Officer

<b>Excess employee</b>	<p>an employee is an excess employee if:</p> <p>the employee is included in a class of employees employed in Comcare, which class comprises a greater number of employees than is necessary for the efficient and economical working of Comcare;</p> <p>the services of the employee cannot be effectively used because of technological or other changes in work methods of Comcare or changes in the nature, extent or organisation of the functions of Comcare; or</p> <p>where the duties usually performed by the employee are to be performed in a different locality, the employee is not willing to perform duties at that locality and the Chief Executive Officer has determined that these provisions apply to the employee.</p>
<b>Executive Level employee</b>	Employees at the Executive Level 1, Senior Legal Adviser, Executive Level 2 and Principal Legal Adviser classifications
<b>FWA</b>	means Fair Work Australia
<b>Fair Work Act</b>	means the <i>Fair Work Act 2009</i>
<b>Family</b>	a person who is related by blood or by marriage, has a strong affinity with the employee including traditional kinship, is a de facto spouse, former spouse or former de facto spouse of the employee without discrimination as to sexual preference, is a member of the employee's household, is a member of the employee's immediate family, is a child or an adopted child of the employee, is a child or an adopted child of the person who stands in a genuine domestic or household relationship with the employee.
<b>Higher Duties</b>	means a temporary assignment of duties at a higher classification under section 25 of the Public Service Act
<b>Household member</b>	means a person who normally lives at the employee's residence, other than in a commercial arrangement
<b>Illness</b>	includes an injury or medical condition
<b>Immediate Family</b>	comprises: spouse, de facto spouse or partner of the employee; and a child or an adult child (including an adopted child, a step or ex nuptial child), parent, grandparent, grandchild or sibling of the employee or spouse or partner of the employee.

<b>Invalidity</b>	for the purposes of this Agreement, termination of employment on the grounds of invalidity means the termination, under 29(3)(d) of the Public Service Act, of an employee who is a member of either the PSS or CSS superannuation schemes following the obtaining of the certification required by section 13 of the <i>Superannuation Act 1990</i> , or section 54C of the <i>Superannuation Act 1976</i>
<b>Manager</b>	includes an employee's direct supervisor, and any other person employed or engaged under an Act who has direct line responsibility for the employee
<b>Misconduct</b>	a breach of the code of conduct
<b>Move</b>	in relation to the employee's duties, means a reassignment of duties, whether on a temporary or permanent basis, either within Comcare or to or from another APS agency
<b>Non-compensation case</b>	means a case where liability has not been accepted under the <i>Safety Rehabilitation and Compensation Act 1988</i> and includes a case where a claim has been lodged under that Act, but has not been determined
<b>Partner</b>	means in relation to a person who is a member of a couple, the other member of the couple
<b>Performance and Development Framework</b>	means Comcare's performance management system
<b>Primary care giver</b>	a person who assumes the principal role of providing care and attention to a child/children.
<b>Public Service Act</b>	the <i>Public Service Act 1999</i>
<b>Salary</b>	the employee's rate of pay (in accordance with the pay rates at Attachment A) will be salary for all purposes, including superannuation (subject to relevant superannuation scheme rules), overtime, severance and termination payments
<b>Staff</b>	means employees of Comcare who are employed under the provisions of the Public Service Act and covered by this Agreement
<b>Standard Hours</b>	Standard hours for a full time employee is 8:30am to 12:30pm then 1:30pm to 5:00pm. Part-time employees standard hours are those defined within the contract of employment or the part-time work arrangement where available

## SIGNATURE PAGE

### For the Employer

On behalf of the Minister for Employment and Workplace Relations

Signed: \_\_\_\_\_

Date: \_\_\_\_\_

Paul O'Connor  
Chief Executive Officer  
Comcare  
GPO Box 9905,  
Canberra ACT 2601

### For the Community and Public Sector Union

Signed: \_\_\_\_\_

Date: \_\_\_\_\_

Alistair Waters  
Deputy National President  
Community and Public Sector Union  
Level 10, 24 Collins Street  
Melbourne Vic 3000

# 66

## Employee Representatives

Signed: \_\_\_\_\_ Date: \_\_\_\_\_

Bridie Potter  
GPO Box 9905,  
Canberra ACT 2601

Signed: \_\_\_\_\_ Date: \_\_\_\_\_

Andrew Crane  
GPO Box 9905,  
Canberra ACT 2601

Signed: \_\_\_\_\_ Date: \_\_\_\_\_

Michael Anglin  
GPO Box 9905,  
Canberra ACT 2601

Signed: \_\_\_\_\_ Date: \_\_\_\_\_

Elizabeth Reed  
GPO Box 9905,  
Canberra ACT 2601



