



Official: Sensitive

First Name Surname  
Address or email address

Dear First Name Surname

## SES letter of offer - engagement as an ongoing employee

I am pleased to offer you an ongoing engagement with the Department of the Prime Minister and Cabinet (PM&C) to the position of Role title *Choose an item.*, Branch, Division, Group.

Your engagement is pursuant to section 22(2)(a) of the [Public Service Act 1999 \(Cth\)](#) and will take effect on date. The effective date may be varied by agreement between the parties or may be delayed by PM&C if the conditions of your engagement have not been met prior to the effective date.

As an SES leader in PM&C you are in a privileged position to be part of an outcomes driven organisation, supporting Government to improve the lives of all Australians. As a member of our senior leadership team we expect you to role model a commitment to fostering a safe, respectful and inclusive culture, promoting the highest levels of integrity, collaboration and innovation through your behaviours and actions.

### Employment terms and conditions of engagement

Your employment terms, including salary and conditions of engagement are outlined in **Schedule 1: Summary of employment terms and conditions of engagement** and will be governed by the **accompanying individual determination** made under section 24(1) of the *Public Service Act 1999* (Cth) (PM&C SES Determination 2024/XXX). Your engagement and employment with PM&C is subject to these conditions. These conditions must be met to the satisfaction of PM&C prior to the date of effect of your engagement or as otherwise specified.

This offer of engagement may be withdrawn by PM&C at any time prior to the date of effect in exceptional circumstances or if any of the conditions are not met to the satisfaction of PM&C.

### Conflict of interest obligations

As an SES leader you are required to provide an annual written declaration of your own and your immediate family's financial and other material private interests. The purpose of disclosure is to ensure that there is awareness of, and appropriate mitigations in place, in respect to personal interests or relationships, which improperly influence, or could be seen to improperly influence, SES employees in respect to their duties. The requirement to disclose interests is provided under [the APS Code of Conduct](#) (section 13 of the *Public Service Act 1999*) and [Section 29](#) of the *Public Governance, Performance and Accountability Act 2013*. Further information can be found in the accompanying PM&C SES Determination 2024/XXX.

The SES Unit will provide you with the SES Declaration of Interests form for your completion within two weeks of commencement with PM&C.

OFFICIAL: SENSITIVE

### Acceptance of offer

To accept this offer, please sign the acceptance of engagement below and send a copy to [SESUnit@pmc.gov.au](mailto:SESUnit@pmc.gov.au). Please contact the SES Unit on 02 6271 XXXX or your hiring manager if you have questions. I look forward to welcoming you to PM&C.

Yours sincerely

Melinda Bopping / Professor Glyn Davis AC  
Chief People Officer / Secretary  
Month 2024

## Acceptance of engagement as an ongoing employee

Name: First Name Surname

I accept the offer of engagement as an ongoing employee of PM&C under section 22(2)(a) of the [Public Service Act 1999 \(Cth\)](#) on the terms and conditions set out in this letter (including the schedule and Determination).

I acknowledge the terms and conditions of my employment are governed by:

- The conditions of engagement outlined in my letter of offer,
- PM&C SES Determination 2024/XXX or any subsequent determination, and
- any other related legislation that applies to me.

I also acknowledge:

- I understand my legal obligations to uphold and promote [the APS Values](#) and abide by [the APS Code of Conduct](#), including declaring any real or perceived conflicts of interest within two weeks of commencement and at least annually (and as they arise).
- If I do not start work on the effective date (or otherwise mutually agreed date) then I will not be engaged.
- I am required to satisfactorily complete a probationary period. My employment may be terminated prior to or at the end of the probationary period where the standard of my conduct or performance does not meet the requirements.
- If I do not meet, cease to meet or become ineligible to meet the required conditions of my engagement, my employment may be terminated.

I consent to PM&C contacting my current employer to obtain information relevant to the Integrity and Performance Check (see schedule for details).

Signature of Employee ..... Date / /

***Please note:** Once your signed offer is returned, the SES Unit will begin processing your onboarding. This will be facilitated through ServicePortal and you will be prompted via email to complete your new starter forms. Any delay in returning your signed letter and your new starter forms through ServicePortal may impact on PM&C's ability to process your payroll information and pay you in a timely manner. If you do not return all of your paperwork prior to the effective date, your commencement may be delayed or the offer revoked.*

*Personal information collected by PM&C through the course of your onboarding process and in the course of your employment will be treated in accordance with the provisions of the [Privacy Act 1988](#) and the Australian Privacy Principles made under that Act.*

## Schedule 1 – Summary of employment terms and conditions of engagement

Employment terms – Ongoing engagement	
FULL NAME	First Name Surname
AGS NUMBER	XXX-XXXXX
CATEGORY OF EMPLOYMENT	Ongoing
GROUP / DIVISION / BRANCH	Department of the Prime Minister and Cabinet (PM&C) Group / Division / Branch
POSITION NUMBER	PN XXXX
DUTIES	As directed
EFFECTIVE DATE	Date
OFFICE LOCATION	Canberra, ACT
DAYS / HOURS PER WEEK	37.5 hours per week
WORK PATTERN	Full-time / Part-time
CLASSIFICATION	Choose an item.
GENERAL TERMS OF EMPLOYMENT	<p>The <a href="#">Public Service Act 1999 (Cth)</a> applies to your employment and you should familiarise yourself with the provisions of that Act, in particular, <a href="#">sections 10 (APS Values)</a>, <a href="#">13 (APS Code of Conduct)</a> and <a href="#">35 (Constitution and role of SES)</a>.</p> <p>Other legislation that applies to your employment includes:</p> <ul style="list-style-type: none"> <li>• <a href="#">Fair Work Act 2009 (Cth)</a> and <a href="#">Commonwealth employment legislation</a></li> <li>• PM&amp;C SES Determination 2024/XXX or any subsequent determination,</li> <li>• Any other related legislation that applies to you.</li> </ul>
ADDITIONAL TERMS OF EMPLOYMENT	N/A
Conditions of Engagement	
PROBATION PERIOD	<p>Choose an item.</p> <p>Your employment is subject to a six month probation period which will apply in accordance with PM&amp;C's Probation Policy. The probation period may be extended in accordance with the Probation Policy. At any time during the probation period, if you are assessed as not meeting the performance and conduct requirements outlined in the Probation Policy and your performance agreement, your employment may be terminated.</p> <p>This probation clause is a condition of engagement imposed under s 22(6) of the <i>Public Service Act 1999</i>. Probation for ongoing employees may be waived at the decision of the PM&amp;C delegate.</p>

Employment terms – Ongoing engagement	
CITIZENSHIP	Proof of Australian citizenship is required before commencing with PM&C, unless you are advised otherwise in writing. You may be contacted by the PM&C Security team to provide additional information or evidence in relation to your Australian citizenship at any time.
SECURITY CLEARANCE	Choose an item.  A security clearance at the required level set out above is an essential qualification for employment in PM&C. You will not be able to work in PM&C unless you hold the required security clearance for the work you have been selected to perform. If you do not hold, cease to hold or become ineligible to hold the required security clearance, your employment with PM&C may be terminated.
ESSENTIAL FORMAL QUALIFICATIONS	You must provide evidence satisfactory to PM&C of your essential formal qualification(s): <ul style="list-style-type: none"> <li>List qualifications here or write 'Not applicable' if there are no essential qualifications required.</li> </ul> <p>If formal qualifications, other than a security clearance, are an essential requirement for performing your duties, such qualifications are set out above. You may be required to provide evidence of these prior to, or during your employment with PM&amp;C.</p>
REDUNDANCY BENEFIT PERIOD	You must not have received a redundancy benefit from an APS Agency or Parliamentary Service Agency, or if you have, the redundancy benefit period must have ended prior to the effective date.
INTEGRITY AND PERFORMANCE CHECKS	PM&C's SES Unit will contact your current employer's HR area to complete an Integrity and Performance Check. The Integrity and Performance Check seeks information on your integrity and conduct, probation, performance and attendance matters within the last five years which may be relevant to your engagement with PM&C.  Satisfactory completion and return of the Integrity and Performance Check is required prior to the effective date. PM&C may withdraw the offer prior to the engagement taking effect if PM&C is not satisfied with the response to any information received during the Integrity and Performance Check. Any delay to the receipt of the Integrity and Performance Check may result in the effective date being delayed.
ADDITIONAL CONDITIONS OF ENGAGEMENT	You must obtain and maintain a working with vulnerable people clearance (or its equivalent). OR N/A

**Department of the Prime Minister and Cabinet**

***Public Service Act 1999***

**Determination under subsection 24(1)**

**PM&C SES Determination 2024/XXX**

**First name Surname**

**AGS No: XXX-XXXXX**

I, Melinda Bopping, Chief People Officer of the Department of the Prime Minister and Cabinet, make the following Determination under subsection 24(1) of the *Public Service Act 1999*.

.....

signature

.....

date

## Definitions and Acronyms

Terminology	Definition
APS	Australian Public Service.
APS employee	An employee engaged under the PS Act.
Classification or classification level	The approved classifications as set out in rule 5 of the <i>Public Service Classification Rules 2000</i> .
Child	A biological child, adopted child, foster child, step child, or ward.
Compressed hours	Where an employee's ordinary hours are compressed into fewer working days over an agreed period. Under this arrangement, ordinary hours must continue to be worked within the span of hours.
De facto partner	A person who, regardless of gender, is living in a common household with the employee in a bone fide, domestic, interdependent partnership, although not legally married to the employee.
Delegate	An SES leader or other person to whom the Secretary delegates a power or function under this Determination.
Dependant	Employee's spouse or de facto partner, a child, parent or aged relative of the employee or the employee's spouse or de facto partner, who ordinarily lives with the employee and who is substantially dependent on the employee. Dependant also includes a child of the employee who does not ordinarily live with the employee but for whom the employee provides substantial financial support.
Employee	An employee of the Commonwealth engaged under section 22(2) of the PS Act who is covered by this Determination (whether full time, part-time or casual, ongoing or non-ongoing).
FW Act	<i>Fair Work Act 2009</i> .
FBT	Fringe Benefits Tax
Family	Family or immediate family means: <ul style="list-style-type: none"> <li>• a spouse, former spouse, de facto partner or former de facto partner of the employee;</li> <li>• a child, parent, grandparent, grandchild, or sibling of the employee;</li> <li>• a child, parent, grandparent, grandchild, or sibling of a spouse, former spouse, de facto partner or former de facto partner of the employee;</li> <li>• a member of the employee's household; or</li> <li>• a person with whom the employee has a relationship of traditional kinship where there is a relationship or obligation, under customs and traditions of the community or group to which the employee belongs.</li> </ul>
Family & Domestic Violence	Has the same meaning as in section 106B(2) of the FW Act.
Fortnightly Contribution Salary	The amount that would have been the person's 'fortnightly contribution salary' if they were a PSS member.
HDA	Higher Duties Allowance.

Terminology	Definition
LSL Act	<i>Long Service Leave (Commonwealth Employees) Act 1976.</i>
Manager	An employee's direct manager who is usually the person to whom an employee reports to on a day-to-day basis for work related matters, and may include a person referred to as a supervisor.
ML Act	The <i>Maternity Leave (Commonwealth Employees) Act 1973</i> as amended from time to time and any successor legislation
NES	The National Employment Standards at Part 2-2 of the FW Act.
Non-ongoing employee	Refers to the engagement of APS employees for either a specified term; or for the duration of a specified task; for duties that are irregular or intermittent as provided in sections 22(2)(b) and (c) of the PS Act.  SES leaders may be engaged for a specified term as outlined in Regulation 12 of the <i>Public Service Regulations 2023</i>
Ongoing employee	An employee engaged under section 22(2)(a) of the PS Act.
Ordinary hours, duty or work	An employee's usual hours worked in accordance with the Determination and does not include additional hours.
Parliamentary Service	Employment under the <i>Parliamentary Service Act 1999</i> .
Part-time employee	An employee employed to work less than the average of 37.5 hours per week in accordance with the Determination.
Partner	A spouse or de facto partner.
PGPA Act	<i>Public Governance, Performance And Accountability Act 2013.</i>
PM&C	The Department of the Prime Minister and Cabinet.
Primary caregiver	For the purposes of the parental leave clause means a pregnant employee with an entitlement under the ML Act, or an employee other than a casual employee who has primary care responsibility for a child who is born to them or who is adopted or in long-term foster care as per the clauses on adoption and long-term foster care in this Determination.
PS Act	<i>Public Service Act 1999.</i>
Secondary caregiver	For the purposes of the parental leave clause means an employee, other than a pregnant employee or casual employee, who has secondary care responsibility for a child who is born to them, or for a child who is adopted or in long-term foster care as per the clauses on adoption and long-term foster care in this Determination.
SES leader	Senior Executive Service employee and equivalent.
Span of hours	7 am to 7 pm Monday to Friday, unless varied by formal agreement between the employee and Delegate.
Substantive classification	The classification level an APS employee was engaged at, or last promoted to.



## Section 1 – Preliminary matters

### Citation

1. This Determination may be cited as PM&C SES Determination 2024/XXX.

### Application, commencement and duration

2. This Determination applies to NAME (the 'SES leader', 'employee' or 'you') while you are employed by PM&C at the SES Band X classification.
3. This Determination commences on DATE and will remain in force until (whichever occurs first):
  - a. you cease to be employed by PM&C
  - b. it is revoked by the Delegate
  - c. it is superseded by another section 24(1) Determination
  - d. your classification is reduced.

This Determination replaces in entirety any previous subsection 24(1) Determination in respect of your employment.

### Interaction with legislation, policies and HR delegations

4. This Determination states the terms and conditions of employment of the employee covered by this Determination, other than terms and conditions applying under relevant Commonwealth laws.
5. The terms of this Determination are intended to apply in a manner that does not derogate from the NES. The NES will continue to apply to the extent that any terms of this Determination is detrimental to the employee in any respect when compared with the NES.
6. This Determination will be supported by policies and guidelines, as implemented and varied from time to time.
7. PM&C policies and guidelines apply to SES, however are not incorporated into and do not form part of this Determination. To the extent that there is any inconsistency between policies and guidelines and the terms of this Determination, the terms of this Determination will prevail.
8. The Secretary may delegate to or authorise any person to perform any or all of their powers or functions under this Determination, including the power of delegation, and may do so subject to conditions.

### Work level standards

9. The APS Work Level Standards describe the work at each of the SES classification levels, consistent with the *Public Service Classification Rules 2000*, made in accordance with section 23 of the PS Act.

## Section 2 –SES responsibilities

10. SES leaders are expected to maintain the highest standards of behaviour and ethical standards and uphold and promote the APS Code of Conduct and Values. Legislative and behavioural responsibilities for SES leaders are specified, but not limited to, those set out below.

### Integrity

11. Procedural fairness is essential in building and maintaining trust in the APS. It requires fair and impartial processes for employees affected by APS-wide or PM&C decisions.
12. SES leaders are to give advice that is frank, honest, timely and based on the best available evidence. SES leaders will not be disadvantaged or discriminated against because they have given advice of this nature.
13. SES leaders can, during their ordinary work hours, take time to:
  - a. access an APS-wide ethics advisory service or another similar service; and
  - b. attend PM&C mandated training about integrity.

### Conflict of interest declarations

14. SES leaders are required to declare in writing, at least annually, their own and their immediate family's financial and other interests that could cause a real or apparent conflict of interest.
15. Declarations need to be revised and resubmitted whenever there is a change in personal circumstances and/or a change in work responsibilities that could involve a new real or apparent conflict of interest.

### The *Work Health and Safety Act 2011* (WHS Act)

16. PM&C values a safe, respectful and inclusive workplace free from physical and psychological harm, harassment, discrimination and bullying. All SES leaders have a responsibility to:
  - a. promote and encourage open discussions on health and safety, including psychosocial safety, and positive duty to prevent workplace sexual harassment, sex discrimination and victimisation under the *Anti-Discrimination and Human Rights Legislation Amendment (Respect at Work) Act 2022* (Cth).
  - b. involve workers through consultation on any change processes prior to decisions being made.
  - c. ensure that physical and psychological health and safety is integrated into team planning and is not overlooked due to competing priorities, budgetary constraints, or a lack of resources.
  - d. know the physical and psychological hazards and risks associated with the work of their area, and implement mitigation measures to eliminate or minimise these risks.
17. SES leaders who make, or participate in making, decisions that affect the whole, or a substantial part, of PM&C (as the Person Conducting a Business or Undertaking, PCBU) are an Officer for the

purposes of the WHS Act. To fulfil their duty under the WHS Act, Officers must exercise due diligence to ensure PM&C complies with its work health and safety duties and obligations.

18. Officers in PM&C can generally be regarded as:
  - a. the Secretary
  - b. Deputy Secretaries
  - c. Division Heads
  - d. Chief People Officer.
19. It is PM&C's expectation that all SES Leaders act in a way that is consistent with the obligations of an Officer under the WHS Act. These obligations include the personal, proactive duty to exercise due diligence, which includes taking reasonable steps to:
  - a. acquire and keep up-to-date knowledge of work health and safety matters
  - b. understand PM&C's operations and the associated hazards and risks
  - c. ensure PM&C has resources and implements processes to:
    - i. eliminate or minimise workplace health and safety risks
    - ii. receive and consider information regarding incidents, hazards and risks and respond in a timely way to that information
    - iii. comply with its duties and obligations under the WHS Act

### **The Public Governance, Performance and Accountability Act 2013 (PGPA Act)**

20. The PGPA Act establishes rules for financial management, governance, performance and accountability for the Commonwealth public sector. Officials (all employees) are required to exercise their powers and perform their functions under the PGPA Act and rules in accordance with certain standards of behaviour. The PGPA Act does this through imposing a set of general duties on officials:
  - a. duty of care and diligence
  - b. duty to act honestly, in good faith and for a proper purpose
  - c. duty in relation to use of position
  - d. duty in relation to use of information
  - e. duty to disclose material personal interests.

To meet these duties, officials need to consider and, where relevant, comply with:

- a. finance law, which includes the PGPA Act and rules and instruments made under the PGPA Act, as well as Appropriation Acts, and
- b. the systems of risk management and internal control in PM&C, established by the Secretary (including any delegations or authorisations).

21. Officials who do not discharge their general duties can be subject to employment sanctions, including termination of employment.

### Security clearance

22. SES leaders must hold and maintain a security clearance at the level required to perform their role. If they do not hold, cease to hold, or become ineligible to hold the required security clearance, the SES leaders employment with PM&C may be terminated pursuant to s 29(3)(b) of the *Public Service Act 1999* (PS Act).

## Section 3 – SES performance

### Performance expectations and behaviours

23. SES leaders are required to actively and constructively participate in the PM&C SES Performance Framework, including having an individual performance agreement in place.
24. SES leaders are expected encompass behaviours consistent with the APS Values and the Secretaries Charter of Leadership behaviours (DRIVE).
25. SES performance is assessed against behaviours and outcomes. Excellence in delivering outcomes will not be used to offset or minimise behavioural or conduct concerns.
26. SES leaders are expected to actively seek ongoing development opportunities and invest in the development of others to build high performance.

## Section 4 - Professional development

### Professional memberships

27. SES leaders will have professional memberships and/or accreditation fees paid where the Delegate determines they are an essential requirement of their role or it aligns with PM&C priorities.

### Studies assistance

28. SES leaders may, subject to Delegate approval, access the following to undertake accredited study, in conjunction with work, relevant to PM&C and APS priorities:
  - a. up to \$7,000 per financial year for approved course fees, normally on a reimbursement basis; and/or
  - b. paid study leave of up to six hours per week during study periods.
29. Aboriginal and Torres Strait Islander SES leaders may also:
  - a. access up to an additional six hours paid study leave per week during study periods; and/or

- b. have their fees covered for study to obtain pre-requisite qualifications for entry into a tertiary institution to pursue a tertiary qualification.

## Section 5 - Flexibility and hours of work

### Hours of work

30. Ordinary hours of work are 7 hours and 30 minutes per day (37.5 hours per week) for full time SES leaders, or for SES leaders with a part-time work agreement the hours set out in the agreement.
31. SES leaders have high levels of responsibility and therefore are required to work reasonable additional hours.
32. SES leaders are responsible for discussing workload requirements, resourcing, flexibility and working patterns in their teams to achieve organisational priorities and support individual and team wellbeing. Where an SES leader is a direct supervisor of an Executive Level (EL) employee, they must have these discussions, with each EL employee they supervise at least quarterly.
33. Where agreement cannot be reached between an SES leader and their manager on a regular pattern of hours, or where attendance is unsatisfactory, the Delegate may require an SES leader to work standard hours. This does not reduce the entitlement to request flexible work under the NES.
34. SES leaders who are going to be absent or later than usual must advise their manager as soon as practicable, ideally within two hours of their usual starting time.
35. Where the Delegate determines an SES leader's absence from work is unauthorised, the absence will be unpaid and will not count as service for any purpose, unless otherwise required by law.

### Location of work

36. The employee's usual office location for work is identified in their letter of offer or other engagement documentation. If no designated location is specified on engagement, the Delegate may specify a usual location of work by advising the employee in writing.
37. The Delegate and employee may agree to vary the location in which the SES leader performs their work through an approved formal flexible work arrangement. Where a 100% remote work arrangement is in place, the remote address will be their normal work location for public holiday purposes.

### Flexible working arrangements

38. PM&C and SES leaders recognise:
  - a. the importance of an appropriate balance between employees' personal and working lives, and the role flexible working arrangements can play in helping to achieve this balance;

- b. access to flexible work can support strategies to improve diversity in employment and leadership in the APS;
  - c. access to flexible work supports APS capability, and can assist in attracting and retaining the employees needed to deliver for the Australian community, including employees located at a wider range of locations;
  - d. that flexibility applies to all roles in PM&C, and different types of flexible working arrangements may be suitable for different types of roles or circumstances; and
  - e. requests for flexible working arrangements are to be considered on a case-by-case basis, with a bias towards approving requests.
39. Flexible working arrangements include, but are not limited to, changes in hours of work, changes in patterns of work and changes in location of work.

#### Requesting formal flexible working arrangements

40. The following provisions do not diminish an SES leader's entitlement under the NES.
41. An SES leader may make a request for a formal flexible working arrangement. The request must:
- a. be in writing;
  - b. set out details of the change sought (including the type of arrangement sought and the proposed period the arrangement will operate for); and
  - c. set out the reasons for the change, noting the reasons for the change may relate to the circumstances set out at section 65(1A) of the FW Act.
42. The Delegate must provide a written response to a request within 21 days of receiving the request.
43. The response must:
- a. state that the Delegate approves the request and provide the relevant detail in clause 45 or
  - b. if following discussion between the Delegate and the SES leader, the Delegate and the SES leader agree to a change to the SES leader's working arrangements that differs from that set out in the request – set out the agreed change; or
  - c. state that the Delegate refuses the request and include the following matters:
    - i. details of the reasons of refusal; and
    - ii. set out the Delegate's particular business grounds for refusing the request, explain how those grounds apply to the request; and
    - iii. either:
      - 1. set out the changes (other than the requested change) in the SES leader's working arrangements that would accommodate, to any extent, the SES leader's circumstances outlined in the request and that the agency would be willing to make; or

2. state that there are no such changes; and
  - iv. state that a decision to refuse the request, or failure to provide a written response within 21 days is subject to the dispute resolution procedures of this Determination, and if the SES leader is an eligible SES leader under the FW Act, the dispute resolution procedures outlined in section 65B and 65C of the FW Act.
44. SES leaders returning from parental leave with care of a school age child or younger will have requests for flexible work (including part-time work) approved unless the arrangements cannot be accommodated under any operational circumstances.
  45. Where the Delegate approves the request this will form an arrangement between the Delegate and the SES leader. Each arrangement must be in writing and set out:
    - a. security and work health and safety requirements;
    - b. a review date (subject to clause 49); and
    - c. the cost of establishment (if any).
  46. The Delegate may refuse to approve the request only if:
    - a. the Delegate has discussed the request with the SES leader; and
    - b. the Delegate has genuinely tried to reach an agreement with the SES leader about making changes to the SES leader's working arrangements to accommodate the SES leader's circumstances (subject to any reasonable business grounds for refusal); and
    - c. the Delegate and the SES leader have not reached such an agreement; and
    - d. the Delegate has had regard to the consequences of the refusal for the SES leader; and
    - e. the refusal is on reasonable business grounds.
  47. Reasonable business grounds include, but are not limited to:
    - a. the new working arrangements requested would be too costly for PM&C;
    - b. there is no capacity to change the working arrangements of other SES leaders to accommodate the new working arrangements requested;
    - c. it would be impractical to change the working arrangements of other SES leaders, or to recruit new SES leaders, to accommodate the new working arrangements requested;
    - d. the new working arrangements requested would be likely to result in a significant loss in efficiency or productivity;
    - e. the new working arrangements requested would be likely to have a significant negative impact on customer service; and
    - f. it would not be possible to accommodate the working arrangements without significant changes to security requirements, or where work health and safety risks cannot be mitigated.
  48. For First Nations SES leaders, the Delegate must consider connection to country and cultural obligation in responding to requests for altering the location of work.

49. Approved flexible working arrangements will be reviewed by the Delegate and the SES leader after 12 months, or a shorter period if agreed by the employee. This is to ensure the effectiveness of the arrangement.

#### Varying, pausing or terminating flexible working arrangements

50. An SES leader may request to vary an approved flexible working arrangement in accordance with clause 41. An SES leader may request to pause or terminate an approved flexible working arrangement.
51. The Delegate may vary, pause or terminate an approved flexible working arrangement on reasonable business grounds, subject to clause 53.
52. The Delegate must provide reasonable notice if varying, pausing or terminating a flexible working arrangement without the agreement of the SES leader, having regard to the circumstances of the SES leader. Exceptions to this requirement are urgent and critical operational circumstances or an SES leader's demonstrated and repeated failure to comply with the agreed arrangements.
53. Prior to the Delegate varying, pausing or terminating the arrangement under clause 51 the Delegate must have:
  - a. discussed with the SES leader their intention to vary, pause or terminate the arrangement with the SES leader;
  - b. genuinely tried to reach an agreement with the SES leader about making changes to the SES leader's working arrangements to accommodate the SES leader's circumstances (subject to any reasonable business grounds for alteration);
  - c. had regard to the consequences of the variation, pause or termination for the SES leader;
  - d. ensured the variation, pause or termination is on reasonable business grounds; and
  - e. informed the SES leader in writing of the variation, pause or termination to the approved flexible working arrangement, including details set out in clause 43(c).

#### Part-time work

54. Salary and allowances are calculated on a pro rata basis for SES leaders with a Delegate approved part time work agreement, except for expense related allowances or reimbursements.
55. Payment of salary during leave for an SES leader with a part-time work agreement will be for their ordinary hours, except for long service leave which is calculated in accordance with the LSL Act.
56. If there is a need for regular or ongoing variations to the part-time working pattern, a revised part-time work agreement is required.
57. SES leaders with a part-time work agreement may revert to full-time at the end of the agreed period (noting agreements must be reviewed at least annually), or earlier if full-time work is available and the Delegate agrees.



58. SES leaders engaged on a full-time basis will not be compelled to convert to part-time employment.
59. SES leaders engaged on a part-time basis will not be compelled to convert to full-time employment.

## Public Holidays

60. SES leaders will not normally be required to work on public holidays and will be paid for their ordinary hours. SES leaders may refuse a request to work on a public holiday on reasonable grounds.
61. SES leaders are entitled to the following holidays each year as observed at their normal work location in accordance with the FW Act:
  - a. 1 January (New Year's Day);
  - b. 26 January (Australia Day);
  - c. Good Friday and the following Monday;
  - d. 25 April (Anzac Day);
  - e. the King's birthday holiday (on the day on which it is celebrated in a State or Territory or a region of a State or Territory);
  - f. 25 December (Christmas Day);
  - g. 26 December (Boxing Day); and
  - h. any other day, or part day, declared or prescribed by or under a law of a State or Territory to be observed generally within the State or Territory, or a region of the State or Territory, as a public holiday, other than a day or part day, or a kind of day or part day, that is excluded by the *Fair Work Regulations 2009* from counting as a public holiday.
62. If a public holiday falls on a Saturday or Sunday, and 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.
63. An SES leader and their manager may agree on the substitution of a day or part day that would otherwise be a public holiday, having regard to operational requirements.
64. An SES leader and their manager may agree to substitute a cultural or religious day of significance to the SES leader for any day that is a prescribed holiday. If the SES leader cannot work on the prescribed holiday, the SES leader will be required to work make-up time at times to be agreed. This substitution does not impact or reduce an SES leader's entitlement to First Nations Ceremonial Leave, NAIDOC Leave or Cultural Leave.
65. Where an employee substitutes a public holiday for another day, they will not be paid penalty rates for working their normal hours on the public holiday.
66. Where a public holiday falls during a period when an employee is absent on leave (other than annual, paid personal/carer's or Defence service sick leave) there is no entitlement to receive

payment as a public holiday. Payment for that day will be in accordance with the entitlement for that form of leave (e.g. If on Long Service Leave on half pay, payment is at half pay.)

67. If under a law of a State or Territory every Sunday is declared or prescribed by or under that law to be a public holiday, there is no entitlement to receive payment as a public holiday if the employee would have worked, or does perform work, on that day. In these circumstances, payment will only be made at the public holiday rate if the SES leader performs work on that day, and the Sunday would otherwise be a public holiday under clause 61(a-h).
68. An employee, who is absent on a day or part day that is a public holiday in their normal work location, is entitled to be paid for the part or full day absence as if that day or part day was not a public holiday, except where that person would not normally have worked on that day.
69. Where a full time employee, including but not limited to employees on compressed hours, has a regular planned day off which would fall on a public holiday, the manager may allow the employee to change their planned day off so that it does not fall on a public holiday.

### Christmas closedown

70. Christmas closedown is the period from the end of the last working day before Christmas day to the start of the first working day after New Year's Day.
71. SES leaders are not required to take leave and are not normally required to work during Christmas closedown, and will continue to be paid for their ordinary hours during this period.
72. In exceptional circumstances, SES leaders may be directed by the Delegate to work during Christmas closedown.

## Section 6 – Remuneration (salary and allowances)

### Salary

73. Your base salary is at the SES Band X Pay Point X of **\$xxx,xxx (gross) per annum**, effective from the commencement date of this Determination. This is based on a full-time equivalent salary.
74. SES leaders will be paid fortnightly in arrears by electronic funds transfer into a financial institution account of the SES leader's choice, based on their annual salary using the following formula:

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

Note: This formula is designed to achieve a consistent fortnightly pay rate without significant variability year-to-year. It reflects that the calendar year is not neatly divisible into 26 fortnightly periods. There are 313 fortnightly pay cycles within a 12 year period.

### Annual remuneration adjustments

75. The Secretary may determine annual remuneration adjustments for eligible SES leaders.

## Pay point advancement

76. The Delegate will give consideration to pay point advancement for eligible SES leaders (i.e. within the relevant SES classification band) annually, generally following the end of the annual performance cycle. Pay point advancement is not automatic. Newly promoted SES will generally remain on the same pay point for at least 12 months, unless exceptional circumstances are demonstrated.
77. In exceptional circumstances, the Delegate may increase SES salaries outside of the annual pay point advancement process.
78. The Secretary may reduce SES leaders' annual salary or other remuneration if their performance falls below the expected standard.

## Salary sacrifice

79. SES leaders may sacrifice their salary for a range of non-cash benefits through agreed providers.

## Superannuation

80. PM&C will make compulsory employer superannuation contributions as required by applicable legislation and fund requirements.
  - a. Employer superannuation contributions will be paid on behalf of SES leaders during periods of paid leave that count as service.
  - b. PM&C will make employer superannuation contributions to any eligible superannuation fund, provided that it accepts payment by fortnightly electronic funds transfer (EFT) using a file generated by PM&C's payroll system.

## Method for calculating super salary

81. PM&C will provide an employer contribution of 15.4% of the employee's Fortnightly Contribution Salary (FCS) for employees in the Public Sector Superannuation Accumulation Plan (PSSap) and employees in other accumulation superannuation funds.
82. Employer contributions will not be reduced by any other contributions made through salary sacrifice arrangements.

## Payment during unpaid parental leave

83. Employer contributions will be paid on periods of unpaid parental leave in accordance with the requirements of the PSSap fund where the SES leader is a member of the PSSap, and up to a maximum of 52 weeks where the employee is a member of an accumulation fund other than PSSap.

## Overpayments

84. An overpayment occurs if the Delegate (or PM&C) provides an SES leader with an amount of money to which the SES leader was not entitled (including but not limited to salary, entitlements, allowances, travel payment and/or other amount payable under this Determination).
85. Where the Delegate considers that an overpayment has occurred, the Delegate will provide the SES leader with notice in writing. The notice will provide details of the overpayment.
86. If an SES leader disagrees that there has been an overpayment including the amount of the overpayment, they will advise the Delegate in writing within 28 calendar days of receiving the notice. In this event, no further action will be taken until the employee's response has been reviewed.
87. If after considering the SES leader's response (if any), the Delegate confirms that an overpayment has occurred, the overpayment will be treated as a debt to the Commonwealth that must be repaid to the agency in full by the SES leader.
88. The Delegate and the SES leader will discuss a suitable recovery arrangement. A recovery arrangement will take into account the nature and amount of the debt, the SES leader's circumstances and any potential hardship to the employee. The arrangement will be documented in writing.
89. PM&C and the SES leader may agree to make a deduction from the SES leader's final monies where there is an outstanding payment upon cessation of employment.
90. Interest will not be charged on overpayments.
91. Nothing in clauses 84 to 90 clauses prevents:
  - a. PM&C from pursuing recovery of the debt in accordance with an Accountable Authority Instruction issued under the PGPA Act;
  - b. PM&C from pursuing recovery of the debt through other available legal avenues; or
  - c. The SES leader or PM&C from seeking approval to waive the debt under the PGPA Act.

## Car parking

92. SES leaders are allocated a car park. Unless they formally decline, the FBT liability will be recovered through a fortnightly post-tax salary deduction.

## Higher duties allowance (HDA)

93. Where an SES role needs to be filled for 2 or more working weeks (inclusive of public holidays), HDA will be paid to any SES leader temporarily occupying a role at a classification level higher than their substantive classification level.
94. HDA will be equal to the difference between the SES leader's current salary and the salary that would be payable if they were promoted to the higher classification level, or a higher amount determined by the Delegate.

- 95. HDA is payable during periods of paid leave where the HDA would have otherwise continued.
- 96. The Delegate may shorten the qualifying period for HDA on a case-by-case basis.
- 97. HDA will be payable while an SES leader is acting at a higher classification level as part of a job sharing arrangement where the duration of the arrangement is at least 2 working weeks.

**Workplace responsibility allowances**

- 98. SES leaders appointed by the Delegate or elected by eligible peers and performing the role of First Aid Officer, Emergency Warden, Health and Safety Representative, Mental Health First Aid Officer or Workplace Respect Officer will be paid a fortnightly allowance rate as per the table below. This allowance rate will increase in line with the salary rate increases, as reflected in the table below.

Allowance	On Commencement	13 March 2025	12 March 2026
	4%	3.8%	3.4%
Workplace responsibility	\$35.31 per fortnight	\$36.65 per fortnight	\$37.90 per fortnight

- 99. Where an SES leader holds 2 or more of these roles simultaneously, they will be paid a single allowance rate, unless the Delegate approves otherwise due to operational requirements.
- 100. The full allowance is payable regardless of flexible work arrangements and part-time arrangements.
- 101. The Delegate will consider an SES leader’s physical availability to undertake the role when appointing and reappointing employees to these roles, noting that some roles may not necessarily require a physical presence in the workplace.

## Community Language allowance

102. A community language allowance will be paid where the Delegate determines that an SES leader is regularly required to use their ability to communicate in Braille or a language other than English (including First Nations languages and AUSLAN) in the course of their work, and the SES leader meets the required level of competency set by the Delegate.
103. The allowance is paid in accordance with the employee's level of competency:

Rate	Standard	On commencement 4%	13 March 2025 3.8%	12 March 2026 3.4%
1	An SES leader who has adequate language skills, as determined by an individual or body approved by the Delegate, for simple communication.	\$1,435 per annum	\$1,490 per annum	\$1,541 per annum
2	An SES leader who is certified by the National Accreditation Authority for Translators and Interpreters (NAATI) as a Translator or Interpreter at any level; or is assessed to be at the equivalent level by an individual or body approved by the Delegate.	\$2,870 per annum	\$2,979 per annum	\$3,080 per annum

104. The allowance is calculated annually and paid fortnightly.
105. The full allowance is payable regardless of flexible work arrangements and part-time arrangements.
106. The allowance is payable during periods of paid leave.
107. The allowance counts as salary for superannuation purposes and for calculating retirement and redundancy entitlements.

## Travel expenses

108. Where an SES leader is required to travel for work, they should not be out-of-pocket for reasonable costs of travelling, accommodation, meals and other incidentals. These expenses will be covered by PM&C normally, unless otherwise agreed.
109. SES leaders are required to use a PM&C credit card for payment of travel expenses (for both Domestic and International travel) including meals and incidentals. Where this is not practical an allowance will be paid in accordance with PM&C's Official Travel Policy.
110. If the Delegate determines that there is a regular business need to undertake travel, PM&C will pay for access to a single airline lounge membership annually.

## Relocation assistance

111. Where an existing SES leader is required to relocate at the request of PM&C the SES leader may be provided with financial relocation assistance.
112. Where an SES leader is required to relocate on engagement with PM&C, the SES leader may be provided with financial relocation assistance.
113. Reasonable expenses associated with the relocation may include:
  - a. the cost of transport of the SES leader, dependants and partner by the most economical means;
  - b. removal expenses, namely the reimbursement of reasonable incurred costs of the removal of furniture and household effects of the SES leader, dependants and partner;
  - c. the reimbursement of the cost of the insurance premium based on a reasonable replacement value; and
  - d. the reasonably incurred expenses in kennelling and transport of pets, up to the amount determined by the Delegate.
114. Additional relocation assistance may be considered at the Delegate's discretion.

## Reimbursements

### Loss or damage to clothing and/or personal effects

115. The Delegate may approve reimbursement for loss or damage to clothing and/or personal effects occurring in the course of an SES leader's work.

### Carer's costs

116. Where an SES leader is required to travel away from their normal work location, or are directed to work outside their regular working pattern, the Delegate may approve reimbursement of reasonable, unavoidable, additional costs associated with the care of family members or dependants. The SES leader must advise their manager in advance that costs may be incurred, unless it is impractical to do so.

### Financial retirement advice

117. SES leaders aged 54 years or older may receive a one-off reimbursement of up to \$1000 (plus GST) towards the cost of financial retirement advice.

## Section 7 - Leave

### Notice and approval of leave

118. SES leaders taking personal/carer's leave, community service leave, compassionate leave or parental leave are required to give notice to the Delegate as soon as practicable that they will be using this leave.
119. SES leaders are required to seek prior approval from the Delegate for annual leave, long service leave, cultural, ceremonial and NAIDOC leave, purchased leave and miscellaneous leave, unless it is impractical to do so. Delegate approval is subject to operational requirements, with consideration given to individual circumstances.
120. Leave must be entered into Aurion as soon as practicable.

### Leave counting and not counting for service

121. Unless otherwise stated in this Determination or required by law, all leave with pay counts as service for all purposes, and all leave without pay does not count as service for any purpose.
122. Periods of leave that do not count as service do not break an SES leader's continuous service.

### Recall to duty or cancellation of leave

123. SES leaders may have annual, purchased or miscellaneous leave cancelled, or be recalled to duty from these leave types, where the Delegate determines there are exceptional or emergency circumstances and it is reasonable to do so.
124. The Delegate will approve reimbursement of any reasonable and/or unrecoverable costs incurred as a result of an SES leader's leave being cancelled or being recalled to work, in line with supporting evidence.

### Annual leave

125. SES leaders will receive four weeks paid annual leave for each year of service (pro-rata for part-time), accrued daily.
126. SES leaders may take annual leave at half pay where they do not have an excess annual leave balance (more than 40 days credit). In exceptional circumstances, the Delegate may determine that an SES leader with an excess annual leave balance can take annual leave at half pay.
127. SES leaders will receive payment for any untaken annual leave upon separation from the APS.

### Excess annual leave

128. An annual leave balance is excess if an SES leader has more than 40 days credit.
129. Where SES leaders have excess annual leave, they must agree a plan with their manager to take reasonable breaks from work and reduce the excess balance to 40 days or below.



130. If agreement cannot be reached, the Delegate may direct the SES leader to take one or more periods of annual leave to reduce the balance to 40 days or below within the next 12 months. The direction will be in writing and provide at least 30 calendar days' notice.

#### Annual leave cash-out

131. SES leaders may cash out some of their annual leave, provided they have taken at least 5 days annual leave in the preceding 12 months and will have a balance of at least 4 weeks remaining.
132. Each cashing out of a particular amount of annual leave must be by separate agreement in writing between the Delegate and the SES leader.
133. Payment will be the rate that would have been payable had the employee taken the annual leave.

#### Purchased leave

134. SES leaders may purchase up to eight weeks additional leave (pro rata for part-time) for each 12-month period, where they do not have an excess annual leave balance. Purchased leave must be taken within 12 months of the initial date of purchase.

#### Personal/Carer's leave

135. SES leaders are entitled to 18 days paid leave per annum (pro-rata for part-time SES leaders).
136. SES leaders are entitled to take personal/carers' leave at full pay, or half pay with Delegate approval, where they are:
- a. ill or injured;
  - b. attending appointments with a registered health practitioner;
  - c. managing a chronic condition; and/or
  - d. required to provide care or support for a family member (including a household member) or a person they have caring responsibilities for because:
    - i. of a personal illness or injury affecting the person; or
    - ii. of an unexpected emergency affecting the other person.
137. A person that an SES leader has caring responsibilities for may include a person who needs care because they:
- a. have a medical condition, including when they are in hospital;
  - b. have a mental illness;
  - c. have a disability;
  - d. are frail or aged; and/or
  - e. are a child, not limited to a child of the SES leader.

138. Where SES leaders have exhausted their paid personal/carer's leave they are entitled to 2 days unpaid carer's leave each time a family member or household member needs care because of illness, injury or an unexpected emergency.
139. In exceptional circumstances, the Delegate may grant additional half pay personal/carer's leave to SES leaders where they have used all of their personal/carer's leave and provide supporting evidence.

#### Evidence requirements

140. Evidence, such as a medical certificate or statutory declaration, may be requested by the Delegate, in the following circumstances:
  - a. personal/carer's leave absence of more than 3 consecutive working days.
  - b. for future personal/carer's leave absences.
141. A certificate from a registered health practitioner for the forward 12 months may be used as evidence of a chronic condition for personal/carer's leave.

#### Accrual

142. Newly engaged ongoing APS SES leaders receive 18 days credit on their PM&C start date. After 12 months the leave will accrue progressively and is credited daily.
143. Existing ongoing APS SES leaders moving to PM&C will accrue leave progressively and be credited daily upon commencement.
144. Non-ongoing SES leaders will be credited 18 days of paid personal/carer's leave upon commencement, pro-rated based on the employee's initial contract period, capped at 18 days (pro-rata for part-time).
145. After the initial non-ongoing contract period or 12 months, whichever is shorter, or where the non-ongoing SES leader has an existing entitlement to personal/carer's leave, the leave will accrue progressively and be credited daily.
146. Where SES leaders have more than 30 days that do not count as service in the preceding 12 months, their accrual of personal/carer's leave will be reduced proportionately.

#### Transitional arrangements

147. SES leaders who, immediately before the commencement of this Determination were:
  - a. ongoing SES leaders at PM&C will transition from annual accrual of personal/carer's leave to daily accrual on their next APS anniversary occurring between 14 March 2024 and 13 March 2025.
  - b. non-ongoing SES leaders at PM&C will be credited 18 days of paid personal/carer's leave upon commencement of this Determination, pro-rated based on the employee's initial contract period and any accrued leave already credited, capped at 18 days (pro-rata for part-time).

**APS Anniversary** means the anniversary of the date the SES leader commenced in the APS.

148. Where an SES leader:

- a. has a chronic condition or other ongoing illness, or cares for someone with a chronic condition or other ongoing illness;
- b. is recovering from surgery;
- c. is pregnant; or
- d. is returning from parental leave or has a child commencing day care;

and, as result of the transition to daily accrual of personal/carer's leave, does not have sufficient credit to cover an absence for which they would otherwise have been able to take personal/carer's leave, the Delegate will advance the SES leader's accrual up to the 12 month anniversary where their leave would have otherwise been credited.

### Leave portability and recognition of prior service

149. Where an SES leader moves into PM&C from another APS agency where they were an ongoing employee, the SES leader's unused accrued annual leave and personal/carer's leave will be transferred, provided there is no break in continuity of service.
150. Where an SES leader is engaged in PM&C immediately following a period of employment in the Parliamentary Services or the ACT Government Service, the SES leader's unused accrued annual leave and personal/carer's leave will be recognised unless the SES leader received payment in lieu of those entitlements on cessation of employment.
151. Where an SES leader is engaged as an ongoing SES leader in PM&C, and immediately prior to the engagement the person was employed as a non-ongoing APS SES leader (whether in the agency or another), at the SES leader's request, any unused accrued annual leave (excluding accrued leave paid out on separation) and personal/carer's leave will be recognised.
152. Where an SES leader is engaged as a non-ongoing APS SES leader, and immediately prior to the engagement the person was employed as a non-ongoing APS SES leader (whether in the agency or another) at the SES leader's request, any unused accrued annual leave (excluding accrued leave paid out on separation of employment) and personal/carer's leave will be recognised.
153. Where an SES leader is engaged as an ongoing SES leader in PM&C, and immediately prior to the engagement the person was employed by a Commonwealth Government employer (other than in the Parliamentary Services which are covered in clause 150), the Delegate will recognise any unused accrued personal/carer's leave at the SES leader's request. The Delegate will advise the SES leader of their ability to make this request.
154. Where an SES leader is engaged in PM&C, and immediately prior to the engagement the person was employed in government service, the Delegate may recognise any unused accrued personal/carer's leave, provided there is not a break in continuity of service. For the purposes of this clause, Government service is as defined in the LSL Act.

155. For the purposes of clauses 149 to 154, an SES leader with a break in service of less than 2 months is considered to have continuity of service.

### Long service leave (LSL)

156. An SES leader is eligible for long service leave in accordance with the LSL Act.
157. The minimum period for which long service leave will be granted is 7 calendar days (whether taken at full or half pay). Long service leave cannot be broken with other periods of leave, except as otherwise provided by legislation or provided for in the re-crediting of leave clause at 229 of this Determination.

### Cultural, ceremonial and NAIDOC leave

#### NAIDOC leave

158. SES leaders may access up to one day per calendar year, of paid leave, to participate in NAIDOC week activities.
159. NAIDOC leave can be taken in part days.

#### First Nations ceremonial leave

160. First Nations SES leaders may access up to 6 days of paid leave over 2 calendar years to participate in significant activities associated with their culture or to fulfil ceremonial obligations.
161. The Delegate may approve additional leave for cultural or ceremonial purposes as miscellaneous leave, with or without pay.
162. First Nations ceremonial leave can be taken as part days.
163. First Nations ceremonial leave is in addition to compassionate and bereavement leave.

#### Cultural leave

164. The Delegate may grant up to 3 days of paid leave per calendar year for the purpose of attending significant religious or cultural obligations associated with the SES leaders' particular faith or culture.
165. The Delegate may approve additional leave for cultural purposes as miscellaneous leave, with or without pay.
166. Cultural leave can be taken as part days.
167. For the avoidance of doubt, this leave does not cover cultural purposes or obligations which are eligible for paid leave under clause 160.

### Parental leave

168. A primary caregiver, secondary caregiver and ML Act is defined in the definitions section.

169. An SES leader who is a primary caregiver or secondary caregiver is entitled to parental leave up until 24 months from the date of the child's birth or placement (parental leave period). For the avoidance of doubt, this is inclusive of all legislated leave entitlements. The parental leave period does not extend non-ongoing employment where the employment period remaining is less than 24 months. An SES leader is only eligible for parental leave with pay as either a primary caregiver or a secondary caregiver for the particular parental leave period, and cannot switch roles for the purpose of accessing additional paid leave.
170. For the pregnant SES leader, the parental leave period starts on commencement of maternity leave as per ML Act requirements, and ceases 24 months from the date of birth. Medical certification requirements for the pregnant employee will be as required by the ML Act.
171. Conditions in this Determination will continue to apply in circumstances where successor legislation to the ML Act does not provide parental leave conditions included in this Determination.

#### Payment during parental leave

172. An SES leader is entitled to parental leave with pay as per clauses 174 and 175 below within the parental leave period. Any further parental leave during the parental leave period is without pay. Unused paid parental leave remaining at the end of the SES leader's parental leave period will lapse. An SES leader may choose to use their accrued paid leave entitlements in accordance with usage and eligibility requirements in this Determination during the parental leave period that would otherwise be without pay.
173. SES leaders newly engaged or who have moved to PM&C from another APS agency are eligible for the paid parental leave in clauses 174 and 175 where such paid leave had not already been provided by another APS or Commonwealth employer in the 24 months since the child's date of birth or placement. If the paid leave used by the SES leader with the previous Commonwealth or APS employer is less than the limits specified in clauses 174 and 175 the balance is available to the SES leader.
174. An SES leader who is a primary caregiver is entitled to parental leave with pay during the parental leave period to a maximum of 18 weeks as provided in Table 1 below.

Table 1: Primary caregivers – circumstances for paid parental leave

Paid leave entitlement under the ML Act	Additional parental leave with pay under this Determination for the primary caregiver
12 weeks' paid maternity leave, including any reduced paid maternity leave period due to ML Act qualifying period rules	Paid leave to bring the total period of paid parental leave to 18 weeks
No ML Act eligibility or coverage	18 weeks paid leave

175. An SES leader who is a secondary caregiver is entitled to parental leave with pay during the parental leave period as provided in Table 2 below.

Table 2: Secondary caregivers – circumstances for paid parental leave

Period which coincides with the parental leave period for the secondary caregiver	Parental leave with pay under this Determination
Date of commencement of this Determination to 28 February 2025	8 weeks, or top up to 8 weeks where a lesser period of parental leave has already been provided
1 March 2025 to 28 February 2026	11 weeks, or top up to 11 weeks where a lesser period of parental leave has already been provided
1 March 2026 to 27 February 2027	14 weeks, or top up to 14 weeks where a lesser period of parental leave has already been provided
On and from 28 February 2027	18 weeks, or top up to 18 weeks where a lesser period of parental leave has already been provided

### Flexibility

176. Parental leave with pay, whether provided as maternity leave under the ML Act or under this Determination, can be accessed flexibly during the parental leave period and does not have to be taken in a single block. For the avoidance of doubt, parental leave can be used to replicate a part-time work arrangement, and can be taken concurrently with another parent in relation to the same child.

### Rate of payment

177. The rate of payment during paid parental leave is the same as for an absence on personal/carer's leave and based on the SES leader's weekly hours at the time of the absence.

### Half-pay option

178. The payment of any paid parental leave may be spread over a maximum period of 36 weeks at the rate of, no less than, half the normal rate of salary. All paid parental leave counts as service for all purposes, where permitted by legislation.

### Adoption, foster and permanent care order leave

179. An SES leader who is a primary caregiver or secondary caregiver is entitled to parental leave in accordance with this Determination for adoption or long-term foster care, provided that the child:
- is under 16 as at the day (or expected day) of placement;
  - has not lived continuously with the SES leader for a period of 6 months or more as at the day (or expected day) of placement; and
  - is not (otherwise than because of the adoption) a child of the SES leader or the SES leader's spouse or de facto partner.
180. Documentary evidence of approval for adoption or enduring parental responsibilities under formal fostering arrangements must be submitted when applying for parental leave for adoption or long-term foster carer purposes.
181. Eligibility for this leave extends to traditional adoption arrangements for Aboriginal and Torres Strait Islander employees.
182. SES leaders may take 2 days unpaid pre-adoption leave to attend interviews or examinations required to obtain approval to adopt a child, where their paid leave credits are insufficient.

### Stillbirth

183. Parents of a stillborn child remain eligible for parental leave, except for paid leave for the secondary caregiver which is 2 weeks.
184. A stillborn child is a child:
- who weighs at least 400 grams at delivery or whose period of gestation was 20 weeks or more;
  - who has not breathed since delivery; and
  - whose heart has not beaten since delivery.

### Pregnancy loss leave

185. A pregnant SES leader who experiences, or an SES leader whose partner experiences, pregnancy loss is entitled to one weeks' paid leave. Pregnancy loss is a miscarriage or other loss of pregnancy that occurs between 12 and 20 weeks' gestation that is not a stillbirth.
186. Pregnancy loss leave is in addition to entitlements to compassionate leave for miscarriage provided under the FW Act and this Determination.

### Premature birth leave

187. In circumstances of a live birth before 37 weeks' gestation a pregnant SES leader, or an SES leader whose partner has given birth prematurely, is entitled to paid premature birth leave from the date of the child's birth up to just before 37 weeks' gestation. Parental leave with pay is then available from what would have been 37 weeks' gestation in accordance with parental leave in this Determination, noting the parental leave period commences on the child's date of birth.

### Transitional provisions

188. SES leaders eligible for paid leave under the ML Act are required under legislation to use their paid maternity leave first. In this circumstance, the SES leader may postpone their paid premature birth leave otherwise payable under clause 187 until after the legislated paid maternity leave is used.

### Return from parental leave

189. SES leaders are entitled to return to their pre-parental leave position after a period of parental leave. Where this position no longer exists, they will return to a position at their substantive classification for which they are qualified and suited.

### Compassionate leave

190. SES leaders will be eligible for 3 days paid compassionate leave on each occasion when:
- a member of their family (including a member of their household) or someone they have a close personal relationship with contracts, develops or sustains a life-threatening illness or injury; or
  - the SES leader or their partner has a miscarriage.
191. An SES leader may be asked to provide evidence to support their absences on compassionate leave.
192. Compassionate leave for an occasion may be taken as 3 consecutive days or in separate periods totalling 3 days. This can include part days.

### Bereavement leave

193. SES leaders will be eligible for 3 days paid bereavement leave on each occasion when:
- a member of their family, household or someone they had a close personal relationship with dies; or
  - a child is stillborn, where the child was a member of their family (including member of their household).



194. An SES leader may be asked to provide evidence to support their absences on bereavement leave.
195. Bereavement leave for an occasion may be taken as 3 consecutive days or in separate periods totalling 3 days. This can include part days.

### Emergency response leave

196. In line with section 108 of the FW Act, an SES leader who engages in an eligible community service activity can get emergency response leave to volunteer for emergency management duties for:
  - a. the time engaged in the activity;
  - b. reasonable travelling time; and
  - c. reasonable recovery time.
197. Full-time and part-time SES leaders will be able to access 20 working days of paid emergency response leave at their full rate of pay per year if required. The Delegate may provide additional emergency response leave with pay.
  - a. For the purposes of this clause, full rate of pay is to be as if the SES leader was at work.
198. Paid leave may be refused where the SES leader's role is essential to PM&C response to the emergency.
199. An SES leader must provide evidence that the organisation requests their services. SES leaders can provide evidence before or as soon as practical after their emergency service activity.
200. The Delegate may approve reasonable paid or unpaid leave for ceremonial duties and training.
201. Emergency response leave, with or without pay, will count as service.

### Jury duty

202. SES leaders who are required by a court to attend either for jury selection, or to act as a juror, will be released from duty for the required period, without the need to apply for leave.
203. Full and part-time SES leaders will be released from duty on their full rate of pay.
  - a. For the purposes of this clause, full rate of pay is to be as if the SES leader was at work.
204. The SES leader is required to inform their manager before they are released from duty and provide evidence of the need to attend.
205. If the SES leader receives a payment from the court for attendance (which are not expense related such as allowances and reimbursements), they must repay that amount to PM&C for the period of absence. This will be administered in accordance with the overpayments clause.

## Leave to attend proceedings

206. An SES leader giving evidence before a Court, Tribunal or Royal Commission on behalf of the Commonwealth or a Commonwealth party in the course of their duties, will be considered on duty.
207. An SES leader who is not covered under clause 206, and is required to give evidence to, appear before or attend to instruct a representative at a Court, Tribunal or Royal Commission in relation to their duties will be released from duty without loss of pay. This includes in proceedings relating to a dispute between the SES leader and PM&C.
208. An SES leader may otherwise be granted paid or unpaid miscellaneous leave by the Delegate if required to give evidence to a Court, Tribunal or Royal Commission for any other reason. Where approval for unpaid leave is given, the SES leader may elect to use accrued annual leave.
209. The Delegate may refuse to release an SES leader from duty having regard to business requirements and whether the SES leader's attendance is necessary for the Court, Tribunal or Royal Commission hearing.

## Defence related leave

### Defence reservist leave

210. The Delegate will give an SES leader leave with or without pay to undertake:
  - a. Australian Defence Force (ADF) Reserve and continuous full-time service (CFTS); and
  - b. Australian Defence Force Cadet obligations.
211. An employee who is a Defence Reservist can take leave with pay for:
  - a. up to 4 weeks (20 days) in each financial year (pro-rata for part-time SES leaders); and
  - b. an extra 2 weeks (10 days) in the first year of ADF Reserve service (pro-rata for part-time SES leaders).
212. Leave can be built up and taken over 2 consecutive years. This includes the extra 2 weeks in the first year of service.
213. An SES leader who is an Australian Defence Force Cadet officer or instructor can get paid leave up to 3 weeks in each financial year to perform their duties. Australian Defence Force Cadets means:
  - a. Australian Navy Cadets;
  - b. Australian Army Cadets; and
  - c. Australian Air Force Cadets.
214. In addition to the entitlement at clause 211, paid leave may be granted to an SES leader to attend an interview or medical examination in connection with the enlistment of the SES leader in a Reserve Force of the Defence Force.

215. Paid Defence reservist leave counts for service.
216. Unpaid defence reservist leave for 6 months or less counts as service for all purposes. This includes periods of CFTS.
217. Unpaid leave taken over 6 months counts as service, except for annual leave.
218. An SES leader will not need to pay their tax free ADF Reserve salary to their agency for any reason.

### Defence service sick leave

219. An SES leader is eligible for defence service sick leave credits when the Department of Veterans Affairs (DVA) has certified that an SES leader's medical condition is as a result of either:
  - a. war-like service; or
  - b. non-war like service.
220. An eligible SES leader can get 2 types of credits:
  - a. an initial credit of 9 weeks (45 days) defence service sick leave (pro-rata for part-time SES leaders) will apply at the following dates, whichever is later:
    - i. they start employment with the APS; or
    - ii. DVA certifies the condition.
  - b. an annual credit of 3 weeks (15 days) defence service sick leave.
221. An SES leader can use their defence service sick leave when a recognised medical practitioner provides a certificate that says they were away due to their DVA certified medical condition.
222. Unused annual credits can be built up to 9 weeks.
223. An SES leader cannot use annual credits until the initial credit is exhausted.
224. Defence service sick leave is paid and counts as service for all purposes.

### Miscellaneous leave

225. Miscellaneous leave may be granted with or without pay for family and domestic violence support and an appropriate purpose that is not provided for elsewhere in this Determination. The Delegate will consider requests in line with supporting evidence.
226. Miscellaneous leave without pay exceeding 6 months will not be approved until annual and purchased leave credits are exhausted, unless the Delegate determines otherwise in exceptional circumstances.
227. A period, or cumulative periods, of miscellaneous leave without pay exceeding 30 days within a 12 month period will not count as service for annual or personal/carer's leave purposes, except that it may count for personal/carer's leave if the leave without pay is determined by the Delegate to be in the interests of PM&C and the employee returns to duty with PM&C following the leave.

228. Any period of miscellaneous leave without pay regardless of duration will not count as service for long service leave purposes, unless a Delegate determines otherwise on a case-by-case basis. Exceptions apply under the LSL Act where an employee is absent on account of ill-health, for specified Defence service, or to occupy an executive office.

### Re-crediting of leave

229. When an SES leader is on:

- a. annual leave;
- b. purchased leave;
- c. defence reservist leave;
- d. First Nations ceremonial leave;
- e. NAIDOC leave;
- f. cultural leave; or
- g. long service leave; and

becomes eligible for, under legislation or this Determination:

- h. personal/carer's leave;
- i. compassionate or bereavement leave;
- j. jury duty;
- k. emergency response leave;
- l. leave to attend to family and domestic violence circumstances; or
- m. parental leave, premature birth leave, stillbirth leave or pregnancy loss leave;

the affected period of leave will be re-credited.

230. When an SES leader is on personal/carer's leave and becomes eligible for parental leave, premature birth leave, stillbirth leave or pregnancy loss leave, the affected period of leave will be re-credited.

231. Re-crediting is subject to appropriate evidence of eligibility for the substituted leave.

## Section 8 – SES Wellbeing Support

### Employee Assistance Program

232. SES leaders, their partners, and their dependants/children have access to a confidential, professional counselling service to assist employees to manage personal and work issues. This service will be provided at no cost by PM&C and will be accessible on paid time.

## Blood donation

233. SES leaders can take reasonable time away from duty during their ordinary work hours to donate blood, plasma or platelets, including reasonable travel time. SES leaders must inform their manager in advance of when they will be away.

## Vaccinations

234. PM&C will offer annual influenza vaccinations at no cost to all employees.
235. Where PM&C requires an employee performing a role to be vaccinated for a particular condition, this vaccination will be offered at no expense to the employee.

## Family and domestic violence support

236. PM&C will provide support for SES leaders affected by family and domestic violence, depending on the SES leader's circumstances.
237. PM&C recognises that a holistic approach should be taken to support the employees, appropriate for their individual circumstances.
238. Family and domestic violence support provisions, including paid leave, are available the SES leader covered by this Determination.
239. An SES leader experiencing family and domestic violence support is able to access paid miscellaneous leave. Reasons an SES leader experiencing family and domestic violence may access this leave include, but are not limited to:
- a. illness or injury affecting the employee resulting from family and domestic violence;
  - b. providing care or support to a family member (including a household member) who is also experiencing family and domestic violence, and is ill or injured as a result of family and domestic violence;
  - c. providing care or support to a family member (including a household member) who is also experiencing family and domestic violence, and is affected by an unexpected emergency as a result of family and domestic violence;
  - d. making arrangements for the employee's safety, or the safety of a close relative;
  - e. accessing alternative accommodation;
  - f. accessing police services;
  - g. attending court hearings;
  - h. attending counselling; and
  - i. attending appointments with medical, financial or legal professionals.
240. This entitlement exists in addition to an SES leader's existing leave entitlements and may be taken as consecutive days, single days or part days and will count for service for all purposes.
241. Given the emergency context in which leave may need to be accessed, SES leaders can proceed to take the leave and seek approval at a later date, as soon as practicable.

242. These provisions do not reduce an SES leader's entitlement to family and domestic violence leave under the NES.
243. Paid miscellaneous leave available under this clause is paid for ongoing and non-ongoing SES leaders at their full rate as if they were at work.
244. Evidence may be requested to support PM&C in approving leave. In most cases, this will not be required. Where it is required, this will be discussed with the SES leader and a statutory declaration is the only form of evidence PM&C will require, unless the SES leader chooses to provide another form of evidence.
245. An SES leader may also choose to provide other forms of evidence, including a medical certificate, or document issued by the Police Service, a Court, a Doctor, district Nurse, a Family Violence Support Service or Lawyer.
246. PM&C will take all reasonable measures to treat information relating to family and domestic violence confidentially. PM&C will adopt a 'needs to know' approach regarding communication of an SES leader's experience of family and domestic violence, subject to steps PM&C may need to take to ensure the safety of the SES leader, other employees or persons, or mandatory reporting requirements.
247. Where PM&C needs to disclose confidential information for purposes identified in clause 246, where it is possible PM&C will seek the SES leader's consent and take practical steps to minimise any associated safety risks for the employee and/or privacy breaches.
248. PM&C will not store or include information on the SES leader's payslip in relation to the SES leader's experience of family and domestic violence; any leave accessed for the purposes of family and domestic violence; or support(s) provided by the employer, unless otherwise required by legislation.
249. Other available support may include, but is not limited to, flexible working arrangements, additional access to EAP, changes to their span of hours or pattern of hours and/or shift patterns and/or location of work where reasonably practicable.
250. PM&C will acknowledge and take into account an SES leader's experience of family and domestic violence if an SES leader's attendance or performance at work is affected.
251. Further information about leave and other support available to employees affected by family and domestic violence may be found in policy.

### **Lactation and breastfeeding support**

252. Reasonable paid time during work hours will be provided for lactation breaks for breastfeeding, expressing milk and other associated activities.
253. PM&C will provide access to appropriate facilities for the purpose of breastfeeding or expressing milk, subject to clause 254. In considering whether a space is appropriate PM&C will consider whether:
  - a. there is access to refrigeration;

- b. the space is lockable; and
  - c. there are facilities needed for expressing, such as appropriate seating.
254. Where it is not practicable for a PM&C site to have a designated space, a flexible approach will be taken so that the SES leader can access the support required.
255. The manager and SES leader shall discuss any flexible working arrangements that may be needed to support lactation. This may include consideration of arrangements such as working from home and/or remote working or varying work hours on an ad-hoc or regular basis. Wherever possible, requests by an SES leader will be accommodated, noting these needs may change over time.

## Disaster Support

256. Where an official disaster or emergency is declared and this prevents an SES leader from reasonably attending work, or where it impacts their household or home, the Delegate will consider flexible working arrangements to assist the SES leader to perform their work.
257. Where flexible working arrangements are not appropriate, the Delegate may grant paid miscellaneous leave to an SES leader with regard to the scale and nature of the emergency. This leave counts as service and may be approved retrospectively.
- In considering what period of leave is appropriate, the Delegate will take into account the safety of the SES leader, their family (including their household) and advice from local, State and Commonwealth Authorities.

## Section 9 – Engagement, Separation and Termination

### Probation

258. The probationary period for newly engaged SES leaders is 6 months, unless set out otherwise in the letter of offer or determined otherwise by the Delegate.

### Resignation

259. An SES leader may resign from their employment by giving their manager at least four weeks' notice unless otherwise agreed with their manager.
260. The manager has the discretion to agree to a shorter period of notice or waive the requirement to give notice.
261. SES leaders must complete off-boarding requirements and return all PM&C property in their possession or under their control on or before their last day of employment with PM&C (unless otherwise agreed in writing).
262. If an SES leader resigns, the manager may choose to:
- a. retain their services during the notice period; or

- b. not to retain their services for some or all of the notice period, and make a payment in lieu of notice for the part of the notice period for which they are not retained.

### Termination of employment

- 263. An SES leader's employment may be terminated by the Delegate on the grounds set out in section 29 of the PS Act.
- 264. If the Delegate terminates an SES leader's employment, the Delegate will give them notice or payment in lieu of notice, in accordance with the requirements of the FW Act.
- 265. Nothing in this Determination prevents the Delegate from terminating an SES leader's employment without notice or payment in lieu of notice due to serious misconduct.

### Offer of Incentive to Retire

- 266. An SES leader may be offered an incentive to retire payment in circumstances where:
  - a. the SES leader is excess to requirements; or
  - b. the SES leader no longer has the skills required to perform their SES role.
- 267. The Delegate will consider options for internal reassignment of duties at PM&C, both at level or a lower classification, before making an incentive to retire offer.
- 268. The Delegate may give notice, in writing, to an SES leader and offer a payment under section 37 of the PS Act as an incentive to retire if the employee retires within the period specified in the notice. The SES leader may be entitled to a redundancy payment in accordance with the FW Act.
- 269. Any payment under section 37 is in addition to the payment of any unused annual leave and long service leave credits the SES leader is entitled to.
- 270. If an SES leader is provided with an incentive to retire offer pursuant to section 37 of the PS Act, the Delegate will reimburse the cost of obtaining financial advice and/or career counselling services up to \$1000, where appropriate supporting evidence is supplied. Access to Career transition support may also be offered.

### Payment upon death of an SES leader

- 271. When an SES leader dies, or the Delegate has determined that an SES leader is presumed to have died on a particular date, subject to any legal requirements, the Delegate must authorise payments to the partner, dependants or legal representative of the former SES leader, the amount to which the former SES leader would have been entitled had they ceased employment through resignation or retirement, or where legislation provides specifically for amounts calculated based on the death of the SES leader, those amounts. If payment has not been made within a year of the former SES leader's death, it should be made to their legal representative.



## Section 10 - Dispute Resolution

272. If a dispute relates to:

- a. a matter arising under this Determination; or
- b. the NES;

this term sets out procedures to settle the dispute.

273. An SES leader who is covered by this Determination may initiate and/or be a party to a dispute under this term.

274. An SES leader who is a party to the dispute may appoint a representative for the purposes of the procedures in this term. Representatives will be recognised and dealt with in good faith.

275. Parties to the dispute must attempt to resolve the dispute at the workplace level, by discussion between the SES leader and relevant managers. Either party may request that a mediator be engaged to assist with the resolution of the dispute, and the other party is expected to not unreasonably withhold their agreement. Any mediator will be mutually agreed, and the cost will be borne by PM&C until the mediator determines that no mutually accepted outcome can be achieved through mediation.

276. If a dispute about a matter arising under this Determination is unable to be resolved at the workplace level, and all appropriate steps under clause 275 have been taken, a party to the dispute may refer the dispute to the Fair Work Commission.

277. The Fair Work Commission may deal with the dispute in 2 stages:

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

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

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

- a. an SES leader must continue to perform their work as they would normally in accordance with established custom and practice at PM&C that existed immediately prior to the dispute arising unless they have a reasonable concern about an imminent risk to their health or safety; and
- b. subject to clause 278(a) an SES leader must comply with a direction given by PM&C to perform other available work at the same workplace, or at another workplace, unless:
  - i. the work is not safe; or

- ii. applicable work health safety legislation would not permit the work to be performed; or
- iii. the work is not appropriate for the SES leader to perform; or
- iv. there are other reasonable grounds for the SES leader to refuse to comply with the direction.

279. The parties to the dispute agree to be bound by a decision made by Fair Work Commission in accordance with this term.

#### Leave of absence to attend proceedings

280. Where the provisions of clauses 272 to 276 have been complied with, and to assist in the resolution of the matter, the employee, and/or the union delegate or other employee representative referred to in clause 273, or employee required to provide evidence, will be granted paid time to attend dispute resolution processes and proceedings in the Fair Work Commission arising from referral of the matter in clause 276.