

## EXPLANATORY STATEMENT

### **PUBLIC SECTOR MANAGEMENT AMENDMENT STANDARDS 2005 (No 10) DISALLOWABLE INSTRUMENT No --- DI2005-277**

*Public Sector Management Act 1994*

#### Legislative Context

The *Public Sector Management Act 1994* (the Act) regulates the management of the public sector and, in particular, section 251 of the Act empowers the Commissioner, with the written approval of the Chief Minister, to make Public Sector Management Standards (the Standards) for the purposes of the Act.

Sections 251(6) and (7) of the Act also provides that the Chief Minister can give a general approval for the making of Standards by the Commissioner for specified purposes. The purposes currently specified include amendments that are consistent with a policy direction previously endorsed by Government and changes of a technical nature, which do not include any significant policy changes, such as changes to clarify existing Standards, updating allowances and correcting typographical errors.

#### Outline

The Commissioner makes these amendments to the Standards in accordance with parameters agreed to by the Chief Minister under sections 251(6) and (7) of the Act. The amendments update references, correct typographical errors and modify formatting within the Standards.

#### Removal of information contained elsewhere

The following Rules were amended to remove notes which contained unnecessary information. For example, prior to amendment some notes referenced the need to read the Standard in conjunction with the Act. This is unnecessary as all Standards must be read in their legislative context:

- Standard 1, Part 2, Rule 5;
- Standard 3, Part 1, Rule 1;
- Standard 3, Part 4, Rule 7;
- Standard 3, Part 6, Rule 1;
- Standard 3, Part 12, Rule 1;
- Standard 4, Part 4, Rule 3;
- Standard 4, Part 9, Rule 3;
- Standard 4, Part 10, Rule 4;
- Standard 4, Part 11, Rule 3;
- Standard 4, Part 12, Rule 1;
- Standard 4, Part 12, Rule 2;
- Standard 5, Part 1, Rule 3;
- Standard 5, Part 2, Rule 7;

- Standard 5, Part 3, Rule 2;
- Standard 5, Part 3, Rule 5; and
- Standard 6, Part 3, Rule 8.

### Definitions

In these amendments definitions were removed, replaced, clarified or updated in the following Rules, as the definitions were either no longer required or contained in other legislation or elsewhere in the Standards:

- Introduction Standard, Part 2, Rule 2;
- Standard 2, Part 2, Rule 1;
- Standard 2, Part 4, Rule 2;
- Standard 2, Part 6, Rule 2;
- Standard 4, Part 10, Rule 2; and
- Standard 5, Part 3, Rule 2.

The definition of *ACTEW* was moved from the Introduction Standard, Part 2, Rule 2 to Standard 7, Part 1, Rule 2.

Definitions for *Public Sector Management* and *GRTW* (graduated return to work program) were inserted into the Introduction Standard, Part 2, Rule 2 to clarify the application of the Standards.

### Updated References

Outdated references to the Act or the Standards were removed and updated or replaced where appropriate in the following Rules:

- Introduction Standard, Part 2, Rule 2;
- Standard 1, Part 3, Rule 2;
- Standard 2, Part 5, Rule 3;
- Standard 2, Part 10, Rule 12.15;
- Standard 3, Part 13, Rule 2;
- Standard 3, Part 21, Rule 9;
- Standard 3, Part 21, Rule 10;
- Standard 4, Part 1, Rule 6; and
- Standard 4, Part 6, Rule 5.

Outdated references to Awards were removed from the following Rules and updated or replaced where appropriate:

- Standard 3, Part 14, Rule 4;
- Standard 3, Part 15, Rule 4;
- Standard 3, Part 17, Rule 7;
- Standard 4, Part 10, Rule 2; and
- Standard 4, Part 10, Rule 5.

Outdated references to other legislation, determinations, circulars or other policy documents were removed from the following Rules and updated or replaced where appropriate:

- Standard 2, Part 10, Rule 12.15;
- Standard 2, Part 10, Rule 12.16;

- Standard 3, Part 7, Rule 7;
- Standard 3, Part 11, Rule 2;
- Standard 3, Part 17, Rule 11;
- Standard 3, Part 18, Rule 17;
- Standard 3, Part 19, Rule 1;
- Standard 3, Part 19, Rule 7;
- Standard 3, Part 21, Rule 9;
- Standard 3, Part 21, Rule 10;
- Standard 4, Part 12, Rule 1;
- Standard 6, Part 2, Rule 6; and
- Standard 7, Part 4, Rule 3.

Wording in the following Rules was also amended to reflect the current legislative framework applying to each Rule:

- Standard 3, Part 18, Rule 17; and
- Standard 3, Part 19, Rule 7.

#### Reimbursement of Travel Expenses

The Standards provide for reimbursement of reasonable travel expenses under Part 2 of Standard 6. The following Rules were amended to remove outdated references to Travelling Allowance, and instead refer to the reimbursement of reasonable travel expenses:

- Standard 3, Part 4, Rule 3;
- Standard 3, Part 7, Rule 5;
- Standard 3, Part 7, Rule 6; and
- Standard 3, Part 21, Rule 26.

#### Minor Amendments

Other minor formatting, grammatical, or typographical amendments were made to the following Rules:

- Introduction Standard, Part 2, Rule 2;
- Standard 1, Part 2, Rule 1;
- Standard 1, Part 3, Rule 2;
- Standard 2, Part 2, Rule 1;
- Standard 2, Part 5, Rule 2;
- Standard 2, Part 5, Rule 3;
- Standard 2, Part 10, Rule 12.15;
- Standard 3, Part 7, Rule 4;
- Standard 3, Part 7, Rule 5;
- Standard 3, Part 7, Rule 6;
- Standard 3, Part 11, Rule 2;
- Standard 3, Part 13, Rule 2;
- Standard 3, Part 14, Rule 4;
- Standard 3, Part 15, Rule 4;
- Standard 3, Part 15, Rule 5;
- Standard 3, Part 17, Rule 7;
- Standard 3, Part 17, Rule 11;
- Standard 3, Part 18, Rule 5;
- Standard 3, Part 18, Rule 16;
- Standard 3, Part 21, Rule 9;

- Standard 3, Part 21, Rule 10;
- Standard 3, Part 21, Rule 21;
- Standard 4, Part 6, Rule 5;
- Standard 4, Part 10, Rule 2;
- Standard 4, Part 12, Rule 2;
- Standard 5, Part 1, Rule 3;
- Standard 5, Part 2, Rule 7;
- Standard 5, Part 3, Rule 2;
- Standard 5, Part 3, Rule 5;
- Standard 6, Part 2, Rule 6;
- Standard 6, Part 3, Rule 8;
- Standard 7, Part 1, Rule 2; and
- Standard 7, Part 4, Rule 2.

### Other Amendments

Standard 1, Part 2, Rule 3 was amended to reflect the correct terminology for engaging Executives and Chief Executives.

Standard 3, Part 17, Rule 3 was amended to remove a provision which relates to the outdated method of accruing recreation leave as leave now accrues daily.

Standard 3, Part 18, Rule 5 was amended to clarify that returned soldiers are eligible for War Service sick leave.

Standard 4, Part 7, Rule 2 was revoked as the definitions are no longer relevant to the Part. Further, for the definition of service, Awards no longer define retention periods, as these periods are provided under agencies' certified agreements. The requirement that the provisions in Standard 4, Part 7 not apply to inefficiency or loss of qualifications was moved to Standard 4, Part 7, Rule 1 to better reflect the nature of the Rule.

A note was also added to Standard 7, Part 4, Rule 2, to clarify that the Board of Senior Secondary Studies issues guidelines for the appointment of the defined positions.

### Financial Impact

Any financial impact will be absorbed by agencies.

### Schedule 1 to this Explanatory Statement

To provide context for these amendments the text of each Rule immediately before this instrument took effect are contained in Schedule 1. Where a new Rule is inserted, and there is no corresponding previous Rule, this will be reflected in the Instrument using the words '*Insert Standard ...*'.

**SCHEDULE 1 TO EXPLANATORY STATEMENT  
PUBLIC SECTOR MANAGEMENT AMENDMENT STANDARD 2005 (No 10)  
DISALLOWABLE INSTRUMENT NO DI2005 -277**

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**Introduction Standard, Part 2, Rule 2**

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**2. Definitions of particular terms**

If a term is used in these Standards and the term is defined in the Act but not in the Standards, then, unless the contrary intention appears, the term has the meaning given to it in the Act.

In these Standards, unless the contrary intention appears:

'ABS' means the Australian Bureau of Statistics

'ACTEW' means the ACTEW Corporation Limited established under the *Territory Owned Corporations Act 1990*

'ACTPS' means the Australian Capital Territory Public Service established under section 5 of the *Public Sector Management (Amendment) Act 1995*.  
'ACTGS' has the same meaning

'agency' has the same meaning as 'government agency' in the Act

'APS' means the Australian Public Service

'ASO' means the classification '*Administrative Service Officer*' and includes a reference to an office classified by that name or a person occupying such an office

'Award' has the same meaning as '*industrial award*' in the Act

'*Calvary Hospital*' means Calvary Hospital A.C.T. Incorporated

'*Certified Agreement*' means the relevant ACT Public Service agreement that covers officers and employees certified under Division 4 of Part VIB of the *Workplace Relations Act 1996* (Commonwealth)

'*Chief Executive*' has the same meaning as '*relevant Chief Executive*' in the Act

'COMCARE' has the same meaning as in the *Safety Rehabilitation and Compensation Act 1988* (Commonwealth)

'committee', in relation to a committee, means all the members of the committee or one or more members acting on behalf of all members

'*Commonwealth Superannuation Scheme*' (CSS) means the superannuation scheme administered under the *Superannuation Act 1976* (Commonwealth)

'*Consequential and Transitional Provisions Act*' means the *Public Sector Management (Consequential and Transitional Provisions) Act 1994* (ACT)

'CPA' means the Commissioner for Public Administration

'*current office*' means the office an officer occupies, or, for an unattached officer, an office having the same classification as the officer

'*domestic partner*' is a reference to someone who lives with the person in a domestic partnership, and includes a reference to a spouse of the person

'*domestic partnership*' is the relationship between 2 people, whether of a different or the same sex, living together as a couple on a genuine domestic basis

'*Gazette*' means the *Australian Capital Territory Gazette*

'*GMO*' means a Government Medical Officer registered as a medical practitioner who has been engaged to provide medical opinion to a government agency in respect of a person

'*GSO*' means the classification 'General Service Officer' and includes a reference to an office classified by that name or a person occupying such an office

'*HDA*' means Higher Duties Allowance

'*locality*' means the ACT and surrounding region

'*MPRA*' means the Merit Protection and Review Agency established under the *Merit Protection (Australian Government Employees) Act 1984* (Commonwealth).

'*part-time officer*' means an officer who occupies a part-time office or an unattached officer who occupied a part-time office immediately before becoming unattached

'*Public Sector Superannuation Scheme*' (PSS) means the superannuation scheme administered under the *Superannuation Act 1990* (Commonwealth)

'*returned soldier*' has the same meaning as the definition in section 251(6) of the *Public Sector Management Act 1994*

'*Selection Committee*' means a committee established to consider and recommend which officer, employee or person should be appointed, promoted, transferred to an office or employed

'*Self-Government Act*' means the *Australian Capital Territory (Self Government) Act 1988* (Commonwealth)

'*Self-Government (Consequential Provisions) Act*' means the *ACT Self-Government (Consequential Provisions) Act 1988* (Commonwealth)

'*staff bulletin*' means any bulletin distributed among officers and employees under the authority of the Commissioner and which contains details of positions available for appointment, promotion, permanent or temporary transfer or employment

'*Standard*' means a Public Sector Management Standard made under the Act and includes a part of a Standard

'State' includes a Territory

'Superannuation Acts' mean the *Superannuation Act 1976* (Commonwealth) or the *Superannuation Act 1990* (Commonwealth), or both, as the case requires

'the Act' means the *Public Sector Management Act 1994* (ACT)

'union' has the same meaning as '*relevant staff organisation*' in the Act

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Standard 1, Part 2, Rule 1

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1. Application

This Part applies to all officers and employees, except the provisions relating to second jobs in rule 4, which relate only to officers.

Section 244 of the Act, which provides the legal requirement to obtain prior approval before commencing a second job, applies only to officers not employees.

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Standard 1, Part 2, Rule 3

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3. Chief Executives and Executives

A Chief Executive or Executive or person acting as Chief Executive or Executive for a continuous period of three months or more must complete a formal declaration of interests.

Declarations by a Chief Executive or Executive must be made:

- prior to appointment, promotion or temporary transfer;
- every twelve months as part of an annual review;
- as soon as possible after any relevant facts have come to the employee's notice; and
- whenever the relevant circumstances change.

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Standard 1 Part 2, Rule 5

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5. Unauthorised disclosure of information

An officer or employee who leaves the ACTPS to work for another employer and who intends to use confidential information acquired while a member of the ACTPS in their new employment, must not use the information without the approval of the relevant Chief Executive or the relevant Minister in the case of a Chief Executive.

***This part should be read in conjunction with Section 9 of the Act.***

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Standard 1, Part 3, Rule 2

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2. Commissioner for Public Administration

Under Part, 1 Division 7, Section 40 of the Public Sector Management Act 1994, the Commissioner for Public Administration is to develop and issue an equal employment opportunity for the Service. The Equity and Diversity Framework for the ACT Public Service is intended as that program.

The Commissioner will update the Framework as appropriate by providing a statement to that effect to the Chief Minister.

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Standard 2, Part 2, Rule 1

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1. Interpretation

In this Part, unless the contrary intention appears:

*'the Gazette'* means the *Australian Capital Territory Gazette*

*'press advertising'* means advertising a vacancy in a newspaper or other published media in a way that meets the requirements of section 65 of the Act

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Standard 2, Part 4, Rule 2

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2. Interpretation

In this Part, unless the contrary intention appears:

*'Chief Executive'* includes officers to whom the Chief Executive has delegated authority to make a decision

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Standard 2, Part 5, Rule 3

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3. Provision in the Public Sector Management Act

Sections 88 and 89 of the Act provide for Joint Selection Committees (JSCs) to conduct selections and make recommendations for promotion and transfer. A JSC is empowered only to make recommendations to Chief Executives about the filling of advertised vacancies. (See subsections 88(2) and 89(2) of the Act.)

A union agreed JSC, convened under section 88 of the Act, is a JSC that a union has agreed to establish and provide with a union nominee.

A management-initiated JSC, convened under section 89, does not require union agreement to be established but may only be used in circumstances which have been prescribed in these Standards after consultation with the union. The prescribed circumstances are listed in this Part.

A Chief Executive should use JSCs to reduce the time and cost of filling vacancies for promotion or transfer. Subject to this Part a promotion made

on the recommendation of a JSC under section 88, or a unanimous recommendation under section 89, is not appealable because of the independent tripartite nature of the committee.

Under subsections 88(5) and 89(4) a JSC is an independent committee and consists of:

- a Convenor nominated by the Director of the MPRA;
- a person nominated by the Chief Executive of the agency; and
- under section 88, a person nominated by the principal union or, under section 89, a person nominated by the principal union if that union nominates a person within fourteen days of notice being given to the union.

Under subsection 88(7) of the Act, a JSC selecting teachers consists of:

- a Convenor nominated by the Chief Executive; and
- two or three other people appointed by the Chief Executive with the agreement of the principal union.

A Chief Executive should use JSCs to fill bulk vacancies with similar or identical duties. The minimum number of vacancies considered by a JSC is 5, unless a Chief Executive and a principal union agree to a lower number.

The procedures for establishing both types of JSCs and the process by which they make recommendations and decisions are different. Advertising and selection procedures are generally the same.

Under paragraphs 88(4)(a) and 89(3)(b) of the Act the Director of the MPRA may determine which is the principal relevant staff organisation in a particular case.

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## Standard 2, Part 6, Rule 2

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### 2. Interpretation

In this Part, unless the contrary intention appears:

*'Chief Executive' or 'Commissioner'* includes officers - 'delegates' - to whom the Commissioner or Chief Executive has delegated their powers under the Act

*'specified defence service'* has the same meaning as in the *Public Service Act 1922* (Commonwealth)

## 12.15 Legal 1

### Eligibility Requirements

1. A degree in Laws of an Australian tertiary institution, or a comparable overseas qualification, which, in the opinion of the Chief Executive, is appropriate to the duties of the office; or
2. Admission as a practitioner, however described, of the High Court or the Supreme Court of an Australian State or Territory; or
3. Successful completion of a course of training as Aboriginal Professional Assistant or Professional Assistant

### Salary Advancement

1. On appointment an officer must be paid salary at the second salary point for Legal 1 specified in Standard 3, unless the Chief Executive determines otherwise (that is, approves a salary above the minimum as described in Standard 2, Part 6 ) or the officer:
  - has been admitted as a practitioner, however described, of the High Court or the Supreme Court of a State or Territory; and
  - has served under articles of clerkship for a period of not less than one year; or
  - before being so admitted, successfully completed a course of training in the Legal Workshop conducted by the Faculty of Law at the Australian National University or a comparable course in Australia; or
  - has gained equivalent experience, in the opinion of the Chief Executive.
2. On promotion, automatic advancement or transfer to Legal 1, the officer must be paid:
  - salary at the second point in the scale; or
  - salary at a higher rate, where the salary payable to an officer on transfer or promotion specified in Standard Six exceeds the second salary point in the scale, subject to 5. below.
3. An officer must not be paid a higher salary than that which was paid on appointment, promotion, automatic advancement or transfer, unless the officer has complied with the conditions specified in 1. above.
4. A person, who has complied with the conditions specified in 1. above, must be paid:
  - salary at the third point in the scale; or
  - at the higher rate payable to the officer on appointment, transfer or promotion.
5. On appointment, promotion or transfer, an officer must not be paid salary above the seventh salary point unless the officer has complied with the conditions specified in 1. above.
6. An officer who has complied with the conditions specified in 1. above is entitled to be advanced to salary points in the scale below in accordance with:
  - performance appraisal procedures applicable to the classification; and

- conditions specified in 7. below.

7. An officer who has attained a performance rating of 3, 4, or 5 must be advanced by the corresponding salary points specified in column 2 below, unless otherwise specified in 7. to 10.:

- after transfer or promotion the officer has completed at least three months' service as a Legal 1 at the rate payable on transfer or promotion.

Column 1 Performance Rating	Column 2 Rate of Advancement
1 and 2	No advancement
3	One salary point
4	Two salary points
5	Three salary points

8. An officer should not be advanced beyond the seventh salary point in the scale unless:

- in the opinion of the Chief Executive, the level of the work allocated for the office is classified as higher level work; and
- the officer has performed work at the higher level for a minimum period of three months and attained a performance rating of 3, 4, or 5 shown in table in 7. above.

9. Where an officer has complied with the provisions of conditions for advancement beyond the seventh salary point, the officer is entitled to advance to the eighth salary point.

10. An officer must not advance beyond the eighth salary point in the scale until the officer has completed twelve months' service at the eighth salary point.

*Note: Performance Appraisal procedures applicable to this classification are those agreed to in Structural Efficiency Circular No. 8 issued by the Department of Industrial Relations.*

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Standard 2, Part 10, Rule 12.16

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## 12.16 Legal 2

### Eligibility Requirements

Admission as a practitioner, however described, of the High Court or the Supreme Court of an Australian State or Territory.

### Salary Advancement

1. An officer must be advanced in accordance with:

- performance appraisal procedures applicable to the classification, and
- conditions specified in 2. below.

2. An officer is entitled to be paid salary at a rate exceeding that which was payable on appointment, transfer or promotion where the officer has attained a performance rating of 3, 4, or 5 if:

- the officer has completed twelve months' service after appointment; or
- after transfer or promotion the officer has completed at least three months' service as a Legal 2 at the rate payable on transfer or promotion.

*Note: Performance Appraisal procedures applicable to this classification are those agreed to in Structural Efficiency Circular No. 8 issued by the Department of Industrial Relations.*

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Standard 3, Part 1, Rule 1

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1. Application

This Part applies to officers and employees.

***This rule should be read in conjunction with Sections 55, 58, 68 and 69 of the Act***

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Standard 3, Part 4, Rule 3

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3. Higher duties allowance

HDA is payable to an officer who is directed in writing by the relevant Chief Executive under sections 100 or 101 of the Act to perform the duties of an office higher than their normal office.

An officer performing higher duties in an office is subject to all conditions of that office including hours of duty as if they had been promoted to that office.

Unless otherwise provided for in the Standards, HDA must be treated as salary for all purposes including travelling allowance, overtime, holiday duty, shift penalties, weekend duty, long service leave, personal and recreation leave subject to written advice of continuation.

An officer may only be paid in respect of one higher office even if they are performing the duties of two higher offices at the same time.

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Standard 3, Part 4, Rule 7

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7. HDA and discipline

If an officer's classification is reduced as a result of disciplinary action, service before the demotion is not counted towards an increment for any higher duties the officer performs after demotion.

***This Part should be read in conjunction with relevant agency agreements.***

### 1. Application

At the discretion of the Chief Executive, this Part may apply to an officer or employee who, because of ACT Public Service work requirements, is required temporarily or permanently to:

- relocate their residence to the ACT; or
- relocate their residence outside the ACT.

This Part does not apply to relocation expenses for Chief Executives and Executives, and Specialists and Senior Specialists. Entitlements in relation to relocation expenses for Chief Executives and Executives, and Specialists and Senior Specialists are derived from the Remuneration Tribunal Determination applicable to Chief Executives and Executives.

This Part does not apply to an officer who was granted approval, prior to the commencement of this Part, to be paid an allowance under the provisions that applied prior to the commencement of this Part. Where approval was granted, prior to the commencement of this Part, for an allowance to be paid to an officer under the provisions that applied prior to the commencement of this Part, the officer will continue to be eligible to receive payment under those provisions.

This Part should be read in conjunction with relevant Certified Agreements, Awards and the Best Practice Notes.

### 4. Rates

An eligible officer is entitled to an allowance:

- if a cook is provided by the agency - at the daily rate specified opposite item 1 in Column 2 of Rule 8.1 and
- if a cook is not provided by the agency - at the daily rate specified opposite item 2 in Column 2 of Rule 8.1.

Where an officer to whom this Rule applies is entitled to an allowance in accordance with that section if they camp out in excess of seven days, they will also be entitled to an additional allowance for the period which is:

- if less than fourteen days - the amount specified in item 1 in Column 2 of Rule 8.2;
- if not less than fourteen days but is less than 21 days - the amount specified in item 2 in Column 2 of Rule 8.2; and
- any other case - the amount specified in item 3 in Column 2 of Rule 8.2.

Where an officer is not supplied with camping equipment by the agency and they hire it, they are entitled to be paid, in addition to the allowance under this Rule an allowance equal to the cost of hiring the equipment.

If an officer is required to move from camp to camp so long as they are not staying in a base camp, a caravan or a hut, then an additional allowance to be paid at:

- the nightly rate specified in item 3 in Column 2 of Rule 8.1, if the period of camping out is more than one night but not more than five consecutive nights; and
- the nightly rate specified in item 4 in Column 2 of Rule 8.1, if the period is not less than six consecutive nights.

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Standard 3, Part 7, Rule 5

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### 5. Payment of fares

A member of a camping party who travels to and from home each day (without TA or CA), the fare for their travel may be refunded provided that:

- the cost is not greater than the amount payable for TA or CA, whichever is applicable; and
- the approval of the officer directly responsible for the camping party is first obtained.

No allowance for travelling time or waiting time is payable under this Rule.

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Standard 3, Part 7, Rule 6

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### 6. Recreation or other leave

If a member of a camping party receiving CA goes on recreation or other leave (except personal leave) with or without pay, the allowance should be discontinued during the leave. If they go on recreation leave and are unable to reach headquarters (where the leave will commence) on the day of leaving camp and an overnight stay in a hotel or motel is necessary, TA should be paid from the time of leaving the camp to the time of arrival at headquarters under the conditions set out in Part 6 - Temporary Accommodation. Payment of TA should also be made for the return journey from headquarters to the camp.

Terms and conditions relating to TA are set out in Standard 6 Part 2.

Except as provided in this part, Camping Allowance must not be paid:

- during a weekend and public holidays comprising more than four consecutive days; or
- on any days on which the member is on leave with or without pay.

Where a member of a camping party desires to leave camp and visit home for weekends or public holidays, and provided the agency incurs no expense for transport, Camping Allowance may be continued during the absence from camp.

A member of a camping party who during the period from Christmas Day to New Year's Day inclusive complies with the conditions of this Part may continue to receive Camping Allowance for weekends and public holidays

during that period but not for any days on which the officer is on leave with or without pay.

A member of a camping party receiving CA or TA who goes on personal leave is covered by Part 18 – Personal Leave.

If a member of a camping party while in camp is granted personal leave, CA may be continued for a period not exceeding one month if the member remains in camp or incurs expense for board and lodging in the same locality as the camp.

If a member of a camping party covered by this Part returns home or travels to a hospital, the fares to home and return to duty should be met by the agency.

If the officer travels to a hospital, fares to and from the nearest hospital should be paid under conditions of this Part, provided that if there is no hospital at the specified headquarters of the party.

An allowance should be paid for the journey to and from home or hospital, at the rate that would have been payable had the officer been on duty during the period covered by the journey; and for the period in hospital, where the hospital is situated away from their home town or headquarters.

For the period covered by this Rule, an officer should be in precisely the same position as if remaining on duty with the party. (For example, if the party was in camp during the member's absence, the allowance would be payable. If the party was part in camp and part in lodgings, CA would be calculated on that basis).

Fares to and from an officer's home should not be paid under this Rule if the department considers it unreasonable, having regard to (for example) the distance to be travelled by the officer and the nature and likely duration of the illness.

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Standard 3, Part 7, Rule 7

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7. Field Allowance

An officer is entitled to be paid a field allowance in the circumstances, and according to the conditions and rates, set out in Determination 1983/10 made under the *Public Service Act 1922* (Commonwealth) as if the relevant parts of that Determination were part of this Standard and as if references to officers, Secretaries and other persons, bodies and things were references to the persons, bodies and things under the Act and Standards that most nearly correspond to their Commonwealth counterpart.

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Standard 3, Part 11, Rule 2

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2. Interpretation

In this Part, unless the contrary intention appears:

*'life insurance policy'* means a policy of life insurance within the meaning of the *Life Insurance Act 1945* (Commonwealth)

*'travel expenses'*

- in the case of an officer recalled to duty from a locality other than their normal place of residence and who resumes the residue of their leave at a locality other than their normal place of residence means the cost of conveyance of the officer; and
- in the case of an officer recalled to duty from a locality other than their normal place of residence means the amount the cost of conveyance of the officer to travel to the place of duty is in excess of the cost which the officer would have ordinarily incurred in returning to their normal place of residence had the officer not been recalled to duty from leave

*'incidental expenses'* mean:

- the cost of non-refundable accommodation, travel deposits and advance fares paid or purchased in respect of an officer and dependants;
- non-refundable rent paid for accommodation not used; and
- other expenses incurred as a result of cancellation of leave or recall to duty

*'leave'* means approved recreation leave, long service leave, or leave of a similar nature applying to an officer

*'loading'* means a payment additional to a normal insurance premium

*'officer'* includes employee employed under Part V Div 7 of the Act.

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### Standard 3, Part 12, Rule 1

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#### 1. Application

This Standard applies to officers and employees to the extent that a condition is not set by an Award or Certified Agreement.

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### Standard 3, Part 13, Rule 2

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#### 2. Interpretation

In this Part, unless the contrary intention appears:

*'duty outside normal hours'* means overtime duty and must commence before or be completed outside normal hours of duty applicable to the officer  
*'normal weekly hours'* has the same meaning as it does in Part 2

*'overtime'* means a period of duty which an officer performs in accordance with a direction of a Chief Executive, in addition to duty during ordinary hours, less the period, if any, for which the officer has been released from duty in lieu of payment for overtime

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Standard 3, Part 14, Rule 4

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4. Restricted duty allowance

If an officer is required for duty outside their ordinary weekly hours of attendance and is directed, in writing, by the relevant Chief Executive to be contactable and available to return to duty without delay or within a reasonable time, they are entitled to be paid an allowance of:

- 7.5 per cent of the officer's hourly rate of salary for each hour restricted Monday to Friday;
- 10.0 per cent of the officer's hourly rate of salary for each hour restricted on Saturday and Sunday; and
- 15.0 per cent of the officer's hourly rate of salary for each hour restricted on public holidays and rostered days off.

An officer's salary for the purposes of calculating payment must include higher duties allowance and any other allowance paid in the nature of salary.

This allowance is not payable to an officer who is absent on leave when the restriction has been lifted.

An officer to whom clause 20 of the *Medical Officers (ACTMOA) Award 1987* applies is to be paid an allowance of \$9.48 per on-call period or \$47.51 per week. The relevant Chief Executive may determine whether the allowance is paid per on-call period or at the weekly rate. 'on-call period' has the same meaning as in the *Medical Officers (ACTMOA) Award 1987*.

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Standard 3, Part 15, Rule 4

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4. Calculation of salary for Sunday or public holiday duty

If the payment of Sunday or public holiday duty for an officer is covered in the provision of an Award, then the officer is paid based on that provision.

Where an employee covered by the *Resident Medical Officers (ACTMOA) Award 1987* is rostered for duty on a public holiday which is not in excess of the set weekly hours as specified in that Award, the employee is paid at the rate of time and a half for the actual time worked on the public holiday. Overtime worked on a public holiday is to be paid at the rate of double time and a half.

If there is no Award provision covering Sunday or public holiday duty, officers performing that duty are entitled to be paid at the rate set out in Standard 3.13.5 *Calculation for the payment of overtime duty*.

If an allowance is, under an Award or Standard, treated as part of salary, then the allowance must be included when calculating the hourly rate for Sunday or public holiday duty.

Subject to any relevant Award, payment for ordinary hours on a public holiday is subject to a minimum payment of four hours for ordinary duty on a public holiday which is not continuous with duty worked the day before or the day after.

If an officer performs continuous duty for two consecutive days and part of or all of these days includes a public holiday, and the continuous duty is less than four hours, they are entitled to be paid for four hours duty at public holiday salary rates.

The period of a meal break must not be treated as a break in Sunday or public holiday duty.

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Standard 3, Part 15, Rule 5

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5. Eligibility for payment or leave for Sunday or public holiday duty

If an employee is rostered for a seven day shift and a public holiday occurs when the employee is rostered off, they must be granted one day off in lieu instead of the public holiday.

The days leave must be granted within one month of the public holiday occurring.

If the leave is not granted, the employee is entitled to one days pay at the single rate in addition to their normal salary.

An officer who is not normally eligible for payment for Sunday or public holiday duty because the salary for their office exceeds the maximum rate of salary payable to an ASO Class 6, may receive payment of an allowance if:

- they are required to regularly attend for duty on those days; and
- they are not entitled to be paid penalty payments or released from duty under a provision of this Part.

The amount of the allowance is an amount as the Commissioner approves.

An officer who is not eligible for payment for Sunday or public holiday duty under an Award, under this Part may accrue leave in lieu of any payment.

If the accrual of leave for an officer is covered in a provision of an industrial Award, then the rate of accrual is based on that provision. In all other cases, the rate of accrual is equal to time worked on Sunday or a public holiday.

Such leave is treated as if it were recreation leave. The officer may have immediate access subject to recreation leave provisions.

If an officer is to report for duty on a public holiday but are unable to do so, pay must be forfeited for the day unless leave with pay has been granted.

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Standard 3, Part 17, Rule 3

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3. Service as a temporary employee for recreation leave purposes

If a temporary employee becomes a permanent officer immediately after ceasing temporary employment, they must be credited with any recreation leave credits accrued during service as an temporary employee.

Service as a temporary employee counts for the purpose of the next accrual of recreation leave.

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Standard 3, Part 17, Rule 7

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7. Additional recreation leave for career medical officers, resident medical officers and registrars

In addition to the period of recreation leave prescribed in the *Commonwealth Authorities and Australian Capital Territories Public Sector Employment General Conditions of Service Award 1998*, a medical officer who is rostered to work regularly on Sundays and Public Holidays, and who works for more than ten Sundays during a calendar year, accrue an additional seven consecutive days recreation leave for that year. The seven consecutive days leave include non-working days.

A medical officer rostered to perform duty on less than ten Sundays during a year in which their annual recreation leave accrues, accrue additional leave for that year at the rate of one tenth of a working week for each Sunday rostered.

Subject to this Part, rostered Sunday overtime shift of less than three hours duration must not to be taken into account for the purposes of this Rule.

A rostered overtime shift which involves some hours to be worked on a Sunday and some on another day is to be treated as a Sunday overtime shift for the purposes of this Rule.

The additional recreation leave prescribed by this Rule is exclusive of Public Holidays.

A Chief Executive may determine, if the amount of additional leave is less than one day, that the amount be carried forward to the following year, if hospital working arrangements so require.

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Standard 3, Part 17, Rule 11

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11. Recreation leave considered to have been taken

This Rule does not apply to a Chief Executive or an Executive.

Subject to this Rule, if an officer has not used the whole or part of a recreation leave credit that accrues two years before 1 July in any year, they are considered to have been granted recreation leave, for the period of the unused recreation leave credit on:

- a) the first day of July; or
- b) if on the first of July the officer is on leave for a period not exceeding four weeks – immediately at the end of that leave; or
- c) if on the first of July the officer is on leave for a period exceeding four weeks and they do not use the unused recreation leave credit within the period of six months immediately following the leave taken – six months after resuming duty.

A Chief Executive may defer applying the provisions of this Rule to an officer who is on a graduated return to work program ('GRTW') on 1 July of any year or on full-time compensation leave as part of the rehabilitation process

under the *Commonwealth Employees' Rehabilitation and Compensation Act 1988*.

The application of this Rule may be deferred for either:

- 12 months, starting either from the time the officer commences the GRTW, or from 1 July of that year, whichever is the later; or
- 3 months from the date the officer returns to normal working hours; whichever is completed first.

If an officer on GRTW acquires an additional excess recreation leave credit during this time, the provisions of this Rule must be applied within six months.

A Chief Executive may vary, in exceptional circumstances to meet the operational requirements of an agency, the date on which recreation leave is considered to have been taken in this Rule for a defined period.

If an officer is not absent from duty during the whole or part of a period of recreation leave that is granted to the officer in accordance with this Part, and the relevant Chief Executive informs the officer that they are required in the interests of the Service to remain absent from duty for the period or part of the period, the officer must remain absent from duty.

If an officer applies in writing, a Chief Executive must grant recreation leave before the first day of July, if this would enable an officer to use all or part of a leave credit that would otherwise attract the application of this Part. If an officer consents, a Chief Executive may substitute alternative dates, having considered the operational needs of the agency.

Recreation leave credits accrued by an officer in the teaching stream in one year may not be carried over beyond the last day of December in the following year except with the approval of the Chief Executive.

A Chief Executive may only approve a carryover on grounds of the illness of the officer.

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## Standard 3, Part 18, Rule 5

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### 5. War Service sick leave

On joining the ACTPS, an eligible officer who has not been allocated war service sick leave credits for prior service is entitled to receive:

- a special one off credit of nine weeks full-pay sick leave; and
- an annual credit of three weeks full-pay sick leave. Further credits are allotted on completion of each twelve months service, and accumulate to a maximum credit of nine weeks.

If an officer joins the ACTPS and has been allotted war service sick leave credits for prior service, they are entitled to receive the following war service sick leave credits as follows:

- the balance of the special nine weeks credit - this unused credit is available whatever the length of the break in service; and

- if the officer left the Australian Public Service before 1 November 1962, the three weeks annual credit must be allotted on reappointment to the ACTPS and on each anniversary of that date; or
  - if the officer left the Australian Public Service/ACTPS after 30 October 1962, they received the balance of the cumulative war service sick leave credit held at the date of last separating, whatever the length of the break in service, the total period of sick leave since 1 November 1962. The accrual date for war service sick leave is the date when that period next reaches a complete number of years.

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Standard 3, Part 18, Rule 16

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16. Officer's health a danger to others

If a Chief Executive determines that an officer is in such a state of health as to render them a danger to other officers of the public, they may require the officer to obtain and furnish a report as to their condition from a Medical Officer. Having regard to the medical report, the Chief Executive may require the officer to take personal leave.

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Standard 3, Part 18, Rule 17

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17. Infections disease contacts

If an officer is reported by an authorised medical practitioner as having had contact with a person suffering from an infectious disease, which in accordance with the provisions of the Public Health (Infectious Diseases) Regulations (ACT) is prevented from attending for duty, the Chief Executive may grant that officer personal leave. The officer may also apply for the absence or a part of it to be deducted from their recreation leave credit.

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Standard 3, Part 19, Rule 1

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1. Application

Part VII of the Act applies to officers and statutory office holders described in section 3 of the Act. It does not apply to a person who is:

- a member of the ACT Legislative Assembly;
- employed under the *Legislative Assembly (Members' Staff) (LA(MS)) Act 1989*;
- employed in an honorary capacity only;
- remunerated by way of fees, allowances or commission only;
- a Judge, as defined by section 4 of the *Judges' Pensions Act 1968*;
- temporarily transferred to employment with the Territory or whose services are temporarily loaned to the Territory by another Australian Government or a public authority of another Australian government; or
- appointed or engaged for employment outside Australia only.

Section 156 of the Act refers to the instances in which a period of leave with pay or part pay or leave without pay, will count as service for the purpose of LSL.

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Standard 3, Part 19, Rule 7

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## 7. Payment to Public Trustee's Fund

If a payment would otherwise be made to dependant minors of a deceased officer or to persons who are under a legal disability, these monies must be held in the Public Trustee's common fund where they will be invested in accordance with the *Trustee Act (NSW)* as modified and applied in the ACT, on behalf of the dependant.

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### Standard 3, Part 21, Rule 9

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#### 9. Special recreation leave for officers returning from compensation leave

This Rule provides for an officer who is on a graduated return to work program under the provisions of the *Safety, Rehabilitation and Compensation Act 1988* to have a form of special recreation leave for the amount of excess recreation leave they would normally be deemed to have taken but have been unable to, due to their compensation leave.

Where an officer is on full time compensation leave on 1 July and the provisions of Part 17 Rule 11 would normally apply, the deeming process is effectively deferred upon their return to duty for either:

- 12 months upon the commencement of a graduated return to work (GRTW) program, or
- 3 months if they return to normal working hours, provided this does not extend the deferral beyond the original 12 months.

Where an officer is on a GRTW program on 1 July and the provisions of Part 21 Rule 11 would normally apply, the deeming process is effectively deferred for 12 months from 1 July or for 3 months after a return to normal working hours provided this does not extend the deferral beyond the original 12 months.

The granting of leave during a GRTW should be carefully considered by the appropriate approving authority and the Rehabilitation Case Manager as it may have a detrimental effect on any return to work program.

If at the end of the 12 month or 3 month period, there is still an excess recreation leave credit, the staff member is deemed immediately to be on recreation leave for a period equalling the remainder of the excess credit.

If an officer is still on a GRTW at the end of 12 months and they have accrued another recreation leave credit, and this is also excess, the above provisions apply to the extent that 6 months is substituted for 12 months.

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### Standard 3, Part 21, Rule 10

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#### 10. Defence service leave

A Chief Executive may grant leave without pay to an officer to undertake a period of specified defence service.

A period of '*specified defence service*' is service set out in this Rule.

Leave granted after the commencement of a period of leave is deemed to take effect at the commencement of that period (that is, retrospective approval).

The relevant Chief Executive may grant leave to an officer to enable them to perform full time defence service as set out in this Rule.

A Chief Executive may grant leave for an officer to perform full-time service in time of war as defined in the *Defence Act 1903* and/or for the purposes of the United Nations in:

- the Defence Force;
- a naval, military or air force of a country allied or associated with Australia for the purposes of defence; or
- a naval, military or air force of the United Nations.

A Chief Executive may grant leave for an officer to undertake continuous full-time service as a member of the Navy, Army or Air Force for a period not exceeding 4 years for which the officer or employee has volunteered.

If an officer, under Commonwealth law is required to render additional service at the conclusion of the period of service for which they have volunteered to serve, the leave granted under this Rule by a Chief Executive to that officer is extended for the period necessary to enable the officer to undertake that additional service.

Leave granted under this Rule is with pay for the first fourteen days. and without pay for the remainder of the time. The leave counts as service for all purposes except recreation leave. If an officer does not return to duty with the ACTPS the LWOP does not count as service for any purpose.

The relevant Chief Executive may grant an officer leave with pay to enable them to undertake the following defence service training:

- annual training as a member of the Navy, Army or Air Force;
- training for a continuous period of not less than 28 days, including Saturdays and Sundays, in the case of members of the Navy who are not required to perform annual training, but who are required to undergo a period of training at intervals of not less than two years; or
- attendance at a school, class, or course of instruction, conducted for the training of members of the Navy, Army or Air Force.

The maximum period of leave in a year that may be granted for the purpose of annual training is:

- in the case of a member of the Navy - thirteen days;
- in the case of a member of the Army - fourteen days; and
- in the case of a member of the Air Force - sixteen days.

The maximum period of leave in a year that may be granted for the purpose of attendance at a school, class, or course of instruction, conducted for the training of members of the Navy, Army or Air Force is:

- in the case of a member of the Navy - 13 days;
- in the case of a member of the Army - 16 days; or
- in the case of a member of the Air Force - 16 days.

The maximum period of defence service leave set out above includes any Saturday and Sunday between the first day of a period of leave in respect of a continuous period of training and the last day of that period of leave.

If a person who is the commander of an officer in relation to an officer's membership of the Navy, Army or Air Force, certifies in writing that attendance by the officer for the purposes of annual obligatory defence service training for a period in addition to those specified above is necessary, leave with pay not exceeding four days in a year may be granted to the officer to enable them to undertake that additional training.

If in a year an officer is required to engage as a member of the Army in a continuous period of training of not less than 33 days, including Saturdays and Sundays, leave of absence may be granted to the officer to enable them to engage in that continuous period of training.

A period, or periods of leave, not exceeding 33 days in aggregate, granted under this Rule in a year, is with pay and counts as service for all purposes.

A Chief Executive may grant leave with pay to an officer to attend an interview or medical examination in connection with their enlistment in a Reserve Force of the Defence Force. Leave granted counts as service for all purposes.

Leave must not be granted under this Rule if an officer is eligible to be granted leave under special circumstances in Rule 23 below.  
In this Rule, unless the context indicates otherwise, a 'year' means any period commencing on 1 July and ending on the following 30 June.

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## Standard 3, Part 21, Rule 21

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### 21. Parental leave

For the purposes of this Rule an officer includes a Chief Executive and an Executive.

#### **21.1 Primary care givers' leave**

Where an officer applies for this leave, a Chief Executive must grant 14 weeks paid primary care givers' leave to the officer where he or she:

- a) demonstrates that he or she is the primary care giver of a new born or adopted child;
- b) has been employed by the Territory for 12 months continuously; and
- c) is entitled to personal leave as a condition of his or her employment.

A period of paid primary care givers' leave counts as service for all purposes.

Unless the Chief Executive determines otherwise in extenuating circumstances:

- a) a new-born must not be more than 14 weeks old before the commencement of the primary care givers' leave; or
- b) in the case of an adoption, the primary care givers' leave must commence no later than 14 weeks after the officer assumes responsibility for the child.

The officer may elect to spread the 14 weeks paid leave over 28 weeks at half-pay. The whole period of primary care givers' leave counts as service for all purposes.

The Chief Executive may approve an officer taking primary care givers' leave in a non-continuous manner, provided that recreation leave or long service leave is not approved, until the officer has exhausted their paid primary care givers' leave credit.

The granting of primary care givers' leave is also subject to:

- a) an officer who is entitled to maternity leave is not entitled to primary care givers' leave;
- b) an officer may take primary care givers' leave up to a maximum of 14 weeks, provided:
  - i. section 173 of the Act is satisfied;
  - ii. this leave is not taken at the same time as any other officer is receiving paid maternity leave or paid leave under Standard 3 Part 21 Rule 20 or Standard 2 Part 1 Rule 4 in relation to the same child; and
  - iii. the officer's entitlement to paid primary care givers' leave is reduced by the amount of paid maternity leave already taken by the other officer referred to in sub-paragraph 21.1b) ii) above.

### **21.2 Paid bonding leave**

Where an officer applies for this leave, a Chief Executive must grant an officer five days paid bonding leave at the time of the birth or adoption of a child by a domestic partner. Where the officer's domestic partner is also an officer, this leave may be taken concurrently with the domestic partner receiving paid maternity or primary care givers' leave.

A period of this leave counts as service for all purposes.

### **21.3 Unpaid Parental leave**

A Chief Executive may grant leave without pay to an officer following the birth or adoption of a child to enable them to care for the child.

This leave may commence on the day of birth of the child, or in the case of an adopted child on the day on which the officer assumes responsibility for the child.

Parental leave does not count as service for any purpose but does not break continuity of service.

The maximum period of such leave is 40 weeks, less any period of absence granted under Part VIII of the Act. This period does not include the required period of absence described under that Part of the Act.

If an officer's domestic partner is also an officer the aggregate period of leave granted to both of them under this Rule must not exceed 66 weeks. This includes leave granted to the officer and the domestic partner under this Rule, and leave without pay granted to the officer and the domestic partner under

Part VIII of the Act. This aggregate period does not include the required period of absence described under that Part of the Act.

The *Workplace Relations Act 1996* (Commonwealth) sets out minimum entitlements to parental leave. These minimum entitlements allow the child's primary carer 52 weeks to care for the child in the first year of the child's life. The 52 weeks can be shared between the parents whether employed inside or outside the ACTPS.

A teacher who has completed three years service may make an application for up to four years parenting leave in total for the first child.

An extension of up to a further three years may be granted to a teacher for each subsequent child, provided:

- that the teacher becomes unattached from the beginning of the following school year; and
- the teacher gives the prescribed notice of intention to return to duty at the end of the period of the unattachment and accepts that placement will normally be made at the beginning of a school year.

The maximum leave available under this provision is seven years.

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Standard 3, Part 21, Rule 26

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26. Leave to attend as witness

A Chief Executive may grant leave to an officer to give evidence before a body or person before whom evidence may be taken on oath.

Leave granted under this Rule, with or without pay, counts as service for all purposes.

Except for leave granted for a purpose specified below, leave must be without pay.

A Chief Executive may grant leave with pay for an officer to give evidence:

- on behalf of a Territory, a State, or the Commonwealth;
- on behalf of an authority established by or under a law of a Territory, a State or the Commonwealth;
- in a judicial review or administrative review proceeding where the matter being reviewed relates to the work of the officer;
- before a Royal Commission appointed under a law of the Commonwealth;
- before a person conducting an inquiry under a law of a Territory, a State or the Commonwealth; or
- before a person or authority exercising arbitral functions under a law of a Territory, a State or the Commonwealth.

An officer is entitled to retain any amounts received by way of witnesses' expenses.

An officer who is granted leave with pay under this Rule who is required to travel to give evidence, is entitled to the payment of travelling allowances and expenses on the same basis as if the officer had travelled in the course of their duties. The total

amount paid to the officer must be reduced by any amount received as witnesses' expenses.

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Standard 4, Part 1, Rule 6

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6. Date of effect of promotions

If an officer elects to accept a promotion and no appeals are made against that promotion, the promotion takes effect on the later of:

- the 21st day after the last appealable promotion was notified; or
- the 7th day after the last non-appealable promotion was notified.

If an appeal against an appealable promotion is disallowed or becomes inoperative, the date of effect of that promotion is the later of:

- the twenty-first day after the promotion is notified in the Gazette;
- the day the appeal is disallowed or becomes inoperative; or
- the day the office becomes vacant.

The date of effect of a promotion after a successful appeal is the later of the day the appeal is allowed or the day the office becomes vacant. This is the prescribed day for the purposes of subsection 91(3) of the Act.

If an officer applies to the relevant Chief Executive to cancel a promotion under section 78 of the Act, and the Chief Executive refuses the application, the date of effect of that promotion is the later of:

- the day the Chief Executive notifies the officer that the application has been refused; or
- the day the office becomes vacant.

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Standard 4, Part 4, Rule 3

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3. Temporary reduction of classification

A Chief Executive may approve a temporary reduction of an officer's classification if:

- the officer has given written agreement to the transfer on reduction;
- the Chief Executive has directed the officer to perform temporarily the duties of an office under section 100 of the Act; and
- the Chief Executive is satisfied that the temporary reduction is in the interests of the officer's career.

***This rule should be read in conjunction with Sections 101 and 102 of the Act.***

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Standard 4, Part 6, Rule 5

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5. Appointment by deemed promotion

If the appointment of an employee under this Part would be a promotion had the employee been an officer of the ACTPS, the appointment is referred to as a '*deemed promotion*' and, subject to this Part and the provisions of Division 5 of Part V of the Act (Promotions and transfers of officers) and the

provisions of the *Merit Protection (Australian Government Employees) Act 1984* (Commonwealth) apply to the appointment as if it were a promotion.

A deemed promotion is made under:

- section 88 of the Act if the appointment is in accordance with the advice of a Joint Selection Committee constituted for the purposes of section 88 of the Act;
- section 88 of the Act if the appointment is in accordance with the unanimous advice of a Joint Selection Committee constituted for the purposes of section 89 of the Act; or
- section 83 of the Act in all other cases.

Subject to this Part, a deemed promotion takes effect as provided under section 91 of the Act as set out in this Standard.

Where an application is made to the MPRA under subsection 87(1) of the Act, the deemed promotion takes effect as follows:

- if the MPRA affirms the promotion under paragraph 87(3)(b) of the Act, on the day after the decision is made; or
- if the MPRA recommends under subsection 87(4) of the Act that the deemed promotion be cancelled and the relevant Chief Executive decides under paragraph 87(b) of the Act not to cancel the deemed promotion, on the day after that decision is made.

An employee appointed under this Part must resign from the approved organisation on the date their deemed promotion takes effect or later, but not before that date, in order for their appointment to take effect.

Subject to this Part, an appointment takes effect on the day on which the employee resigns from the approved organisation, which may be the same day that the deemed promotion takes effect, or a later date.

If an employee resigns from an approved organisation before the deemed promotion takes effect, an appointment does not take effect.

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#### Standard 4, Part 7, Rule 1

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##### 1. Application

This Part applies to officers except those on probation unless specifically indicated.

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#### Standard 4, Part 7, Rule 2

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##### 2. Interpretation

In this Part, unless the contrary intention appears:

*'retrenchment'* means retirement of an excess officer under section 143(1) of the Act, as appropriate

*'RRR Award'* means the *Australian Public Service Redeployment and Retirement (Redundancy) Award 1987*

'service' when an award provides for a retention period depending on an excess officer's length of service, *service* means any Commonwealth or ACTPS service which is recognised for long service leave purposes where there has been no break at all between the various periods of employment, except for any periods of service which ended because of:

- retrenchment;
- invalidity retirement;
- inefficiency;
- loss of qualifications;
- forfeiture of office;
- dismissal as a result of disciplinary action;
- termination of probationary appointment for reasons of unsatisfactory service; or
- voluntary retirement at or above the minimum retiring age.

The provisions of this Part must not be used in cases of inefficiency or loss of qualifications.

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Standard 4, Part 9, Rule 3

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3. Consent to reduction

An officer may consent in writing to being reduced in classification before the relevant Chief Executive takes formal reduction action under section 143 of the Act.

The relevant Chief Executive must provide a statement of reasons and explain that if an officer consents, they will not be able to appeal against the reduction.

***This rule should be read in conjunction with Sections 139, 140 and 144 of the Act.***

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Standard 4, Part 10, Rule 2

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2. Interpretation

In this Part, unless the contrary intention appears:

'award' means the *Australian Public Service Redeployment and Retirement (Redundancy) Award 1987*

'excess officer' includes:

- an officer in a class of officers which has more officers than necessary for the efficient and economical working of the agency;
- an officer whose services cannot be effectively used because of technological or other changes in the work methods of the agency or changes in the nature, extent or organisation of the functions of the agency; or
- an officer whose usual duties are to be performed at a different locality and the officer is not willing to perform duties at that locality, if the

Commissioner has approved applying the excess officer provisions to that relocation.

'retrenchment' means retirement of an excess officer under subsection 143(1) of the Act

'service' means when an award provides for benefits depending on an excess officer's length of service:

- any Commonwealth or ACTPS service which is recognised for long service leave purposes where there has been no break at all between the various periods of employment or where there was a break between an officer resigning under the former 'marriage bar' and later re-entering Commonwealth or ACTPS service except for any periods of service which ended because of:
  - ⇒ retrenchment
  - ⇒ invalidity retirement
  - ⇒ inefficiency
  - ⇒ loss of qualifications
  - ⇒ forfeiture of office
  - ⇒ dismissal as a result of disciplinary action
  - ⇒ termination of probationary appointment for reasons of unsatisfactory service
  - ⇒ voluntary retirement at or above the minimum retiring age

'Absences' during a period of employment which do not count as service for long service leave purposes are also not counted for severance pay purposes, but they do not break continuity.

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Standard 4, Part 10, Rule 4

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4. Notice of retrenchment - officers

A notice of retrenchment of an officer must:

- provide a statement of the reasons for the notice; and
- indicate the officer's right of appeal, unless the officer has given prior written consent to the retrenchment.

***This rule should be read in conjunction with Sections 143 and 144 of the Act.***

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Standard 4, Part 10, Rule 5

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5. Recognised redundancy pay for former ACTPS employees retrenched by the APS

**The Chief Executive may approve a special payment in respect of former ACTPS employees who joined the ACTPS after 1 July 1994, later left and joined the APS without a break in service and subsequently accept a voluntary redundancy from the APS.**

The payment is in respect of ACTPS service only.

The special payment should be made to the relevant Commonwealth agency following receipt of full calculations and evidence that the Commonwealth agency has made the payment to the former officer.

The special payment should be calculated in accordance with the *APS Redeployment and Retirement (Redundancy) Award 1987*.

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Standard 4, Part 11, Rule 3

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3. Invalidation retirement with consent

A Chief Executive must explain that, if an officer consents to retire on invalidity grounds, they will not be able to appeal against the retirement.

A notice of retirement must:

- provide a statement of the reasons for the notice; and
- indicate the officer's right of appeal.

Under subsection 143(7) of the Act, the notice may specify the day the notice is proposed to take effect.

***This rule should be read in conjunction with Sections 143 and 144 of the Act.***

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Standard 4, Part 12, Rule 1

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1. Application

This Part applies to all officers except those on probation and employees except Chief Executive's and Executive's with 12 months continuous service.

Retirement, redundancy and redeployment are generally covered by Awards and certified agreements.

If an Award or agreement applies to an officer that Award or agreement must be followed and it overrides the Act.

Until December 1994 the agreement entitled 'Improving Jobs, Productivity and Pay in the ACT Public Service' contained streamlined procedures on retirement on the grounds of inefficiency and these procedures must be followed.

This Part applies to an officer whether or not they are covered by an Award or agreement. If there is any inconsistency between the Rules and Award or agreement, the Award or Agreement prevails.

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Standard 4, Part 12, Rule 2

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2. Interpretation

In this Part, unless the contrary intention appears:

*'inefficiency'* has the same meaning as in section 139 of the Act:

***This Part should be read in conjunction with Sections 140, 143 and 144 of the Act and agency agreements where relevant.***

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Standard 5, Part 1, Rule 3

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3. Delay in responding to request

An officer who has requested a review of a decision under section 225 or an investigation under section 231 of the Act, may if they have had no response within 21 days of the date of delivery of the request, request in writing that the MPRA ask the internal appeal officer to state how far the review or investigation has progressed or to expedite the review or investigation, or both.

An agency receiving a request from the MPRA must comply with the request as soon as practicable after receipt.

The relevant authority shall not later than 10 days after receiving a request notify the agency of the extent of progress of the review of the original request.

***This rule should be read in conjunction with Sections 224-234 of the Act.***

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Standard 5, Part 2, Rule 7

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7. Review of non-appealable promotions

For the purposes appeal under subsection 87(1) of the Act the prescribed period is 14 days.

***This rule should be read in conjunction with Sections 84-87 and 101-105 of the Act.***

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Standard 5, Part 3, Rule 2

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2. Interpretation

In this Part, unless the contrary intention appears:

*'misconduct'* means a failure of an officer to fulfil his or her duty as an officer in terms of section 178 of the Act

*'failure to fulfil duty as an officer'* for an officer covered by Division 3 of Part X of the Act (officers other than a Chief Executive ) is defined in section 179 of the Act as failure to comply with section 9 of the Act

*'failure to fulfil duty'* for a detached officer is defined in subsection 194(2) of the Act as engaging in improper conduct, being conduct which 'brings the service into disrepute'

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Standard 5, Part 3, Rule 5

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5. Criminal offences and detached officers

For the purposes of paragraph 197(1)(b) of the Act, the prescribed class of persons shall be any person holding an office of Chief Executive appointed under section 28 of the Act.

***This rule should be read in conjunction with Sections 186-202 of the Act.***

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Standard 6, Part 2, Rule 6

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6. Payment arrangements for travel related expenses

The preferred arrangement for payment of travel expenses (including airfares, accommodation and car hire) is through the agreed charging arrangements with the ACT Public Service travel manager. This arrangement must be stated in agency Travel Guidelines.

Other payment options available for expenses are:

- reimbursement of reasonable travel expenses;
- use of Cabcharge;
- use of corporate credit card; and
- cash advances.

6.1 Reimbursement of reasonable travel expenses

The ACT Public Service will reimburse all **reasonable** travel related expenses incurred in the course of travelling for official purposes. A guideline to acceptable and reasonable expenses is provided in Attachment A of the Best Practice Notes, although all legitimate and reasonable work related travel expenses necessary to conduct business efficiently and effectively will be reimbursed.

This information must be incorporated into agency Travel Guidelines.

6.1.1 Meals

Travellers will be reimbursed for actual, reasonable and appropriate meal expenses. Meal expenses must not be reimbursed for travel that is less than ten hours or during single day travel, when meals would normally be provided by the traveller in the normal course of the working day. Meal expenses must not be claimed when included in other travel expenses.

### **6.1.2 Incidental expenses**

Reasonable incidental expenses, when directly related to official travel, are reimbursable by the ACT Public Service. These include reasonable work related expenses not normally incurred in the normal course of the working day.

In instances when it is not practical or possible to use a corporate credit card, the traveller can claim a cash reimbursement provided legible receipts are provided.

## **6.2 Corporate credit cards**

Corporate credit cards are a payment mechanism for official travel and related expenses for those travellers formally issued with a card. Alternative reimbursement mechanisms will be available for those staff not approved to hold a corporate credit card.

Travellers issued with a corporate credit card should use the card to settle costs incurred when travelling for official purposes, where these costs are not able to be paid under the agreed charging arrangements with the ACT Public Service selected travel manager.

Corporate credit cards must not be used for the purchase of airline tickets except in exceptional circumstances, such as cancelled flights, lost tickets, etc.

Corporate cards must be used in accordance with cardholder agreements, the ACT Public Service's contractual obligations, agency Travel Guidelines and this Part.

Corporate cards are intended for official use only and must not be used for personal expenses.

### **6.2.1 Cash access**

A cash access facility is available and should be authorised in accordance with arrangements determined by individual agencies which must be set out in agency Travel Guidelines.

In the event that a cash access facility is approved, the cardholder must submit a detailed substantiation of cash usage when requesting card reimbursement.

### 6.2.2 Reimbursement of cards

Travellers must certify monthly corporate credit card expense statements, confirming that all costs were reasonable and incurred for official purposes. All expenses charged to corporate credit cards must be supported by receipts or other acceptable documentation.

Managers must approve all expenditure as reasonable and for travel related purposes prior to payment of the account being authorised. This includes an audit of expense claims for accuracy, validity and compliance with this Part. These procedures must be stated in agency Travel Guidelines.

### 6.2.3 Misuse

Misuse of corporate credit cards including non-approved or unaccountable expenditure will be subject to recovery action and disciplinary action. Disciplinary provisions must be stated in agency Travel Guidelines.

## 6.3 Cash advances

In certain circumstances an aquittable cash advance facility is available for domestic and international travel expenses. Authorisation procedures for this facility must be outlined in agency Travel Guidelines.

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#### Standard 6, Part 3, Rule 8

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##### 8. Vehicle hire

A vehicles must not be hired on a short term basis to cover a long term need. Each vehicle hire must be individually justified and approved by a Chief Executive or delegate.

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#### Standard 7, Part 1, Rule 2

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##### 2. Interpretation

In this Part, unless the contrary intention appears:

*'former ACTEW officer'* in relation to the holder of an office, means

- an office which has a classification referred to in Rule 13; and
- in relation to an officer, an officer occupying an office with a classification referred to in Rule 13.

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#### Standard 7, Part 4, Rule 2

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##### 2. Interpretation

In this Part, unless the contrary intention appears:

*'course accreditation panel'* means persons appointed as members or chair of an advisory panel, under paragraph 6(2)(a) of the *Board of Senior*

*Secondary Studies Act 1997*, for the purposes of reviewing and accrediting courses.

*'moderation'* means those processes designed to ensure comparability of grades and scores reported on the ACT Year 12 Certificate.

*'moderation group leader'* means a person appointed under paragraph 6(2)(a) of the *Board of Senior Secondary Studies Act 1997* to oversee, direct and manage moderation day proceedings at a venue at which moderation day meetings are held.

*'subject group leader'* means a person appointed under paragraph 6(2)(a) of the *Board of Senior Secondary Studies Act 1997* to oversee, direct and manage moderation for a specific subject group during scheduled moderation days.

*'small group moderator'* means a person appointed under paragraph 6(2)(a) of the *Board of Senior Secondary Studies Act 1997* to oversee, monitor and report on teaching, curriculum and assessment practices in relation to subject moderation groups of 10 or fewer tertiary-eligible students.

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Standard 7, Part 4, Rule 3

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### 3. Eligibility

A Chief Executive may approve the payment of additional remuneration to an officer or employee who is appointed, under paragraph 6(2)(a) of the *Board of Senior Secondary Studies Act 1997*, to perform work for the Board of Senior Secondary Studies.

The officer or employee is eligible to receive, in addition to normal salary, a payment as set out in this Part on completion of the specific work.