



**DEPARTMENT OF FOREIGN AFFAIRS  
AND TRADE**

**Agency Determination 2009/256**

I, Paul Stephens, Assistant Secretary, Staffing Branch, Department of Foreign Affairs and Trade, appointed as the Delegate of the Secretary pursuant to section 78(7) of the *Public Service Act 1999*, make the following Determination pursuant to subsection 24(1) of the *Public Service Act 1999*.

Dated: 7 July 2009

A handwritten signature in black ink, appearing to read 'P. Stephens', written over a faint, larger signature.

Assistant Secretary  
Department of Foreign Affairs and Trade

**PART A - Preliminary**

**1 Citation**

1.1 This Determination may be cited as Agency Determination 2009/256.

**2 Commencement**

2.1 This Determination takes effect from 7 July 2009.

**3 Application**

3.1 This Determination applies to **Timothy Andrew Fischer**.

**4 Interaction with other instruments**

4.1 This Determination does not affect the entitlements (if any) that the Employee may have under the Australian Public Service Award 1998.

4.2 This Determination completely displaces the Continuous Improvement in the Australian Public Service Enterprise Agreement 1995-96.

## **5 Period of Operation**

5.1 This Determination continues in force until it is replaced by:

5.1.1 another subsection 24(1) determination;

5.1.2 a written contract of employment between the Secretary and the Employee;  
or

5.1.3 a collective agreement that applies to the Employee.

## **6 Delegation**

6.1 The Secretary may delegate any or all of his or her powers and functions under this Determination, including this power of delegation, and may do so subject to conditions.

## **7 The Human Resources Manual (HRM)**

- 7.1 There are policies, guidelines and procedures which prescribe the conditions for working in the Department set out in the Human Resources and Performance Management manuals (HRM / PMM). Any such policies, guidelines and procedures are not incorporated into and do not form part of this Determination. These policies, guidelines and procedures may be varied from time to time, and they will apply in the form they are in at the time of any relevant action/decision. If there is any inconsistency between the policies, guidelines and procedures and the express terms of this Determination, the express terms of this Determination will prevail.
- 7.2 References in this Determination to the Department's HRM/PMM are for the further information of the Employee and it is not intended that the HRM/PMM form part of this Determination. However, the signatories recognise that they will have reference to the HRM/PMM in the Department's day to day operations.
- 7.3 The department will continue to review and update the HRM/PMM as necessary, in consultation with employees.

## **PART B - Remuneration and other terms and conditions of employment**

### **8 Duties**

- 8.1 Subject to clause 8.2, the Employee will perform the duties assigned by the Employee's immediate supervisor and/or other senior managers from time to time. The Employee is to comply with lawful instructions given in connection with his/her duties.
- 8.2 The Employee must perform his/her duties in accordance with the *Public Service Act 1999*.

### **9 Obligations**

- 9.1 The Employee will observe, and encourage others to observe, the APS Values and Code of Conduct as provided for by the *Public Service Act 1999*, the Public Service Regulations, the Public Service Commissioner's Directions, the Commonwealth Lobbying Code of Conduct and the Departmental procedures and policies as varied from time to time. If the Employee is travelling overseas on official business, including on a long-term posting, they must also comply with the Department's Code of Conduct for Overseas Service.

### **10 Performance**

- 10.1 Performance of the Employee's duties will be governed by the procedures set out in Schedule 1.

### **11 Employment in Australian Public Service**

- 11.1 The Employee is employed in the Australian Public Service under the *Public Service Act 1999*.

### **12 Working Arrangements**

- 12.1 The Employee will be on duty and will be available at such times as are reasonably necessary to achieve agreed performance indicators, taking account of:
- 12.2.1 the operational requirements of the Department and Government;
- 12.2.2 the Employee's personal needs; and
- 12.2.3 the utilisation of annual recreation leave entitlements.
- 12.2 The standard full-time hours, including for the purposes of leave accrual and deductions, deductions for unauthorised absences and calculating part-time hours, will be an average of 37.5 hours per week worked over the averaging period of 12 months.
- 12.3 The Employee may, with the agreement of his/her supervisor, access regular part-time work or work from home on either a regular or temporary basis, in accordance with

the relevant provisions of the Department's Human Resources Manual (HRM). Remuneration and other benefits (not of a reimbursement nature) will be calculated on a pro rata basis if the Employee elects to work part-time.

### **13 Remuneration**

#### **13.1 Salary and Other Benefits**

- 13.1.1 The Employee will be paid at the SES Band 2.2 level and will receive the annual salary as set out in the *Secretary's Determination for SES salary rates*.
- 13.1.2 The Employee's annual salary, which reflects the skills and responsibilities required in the Employee's job, is payable fortnightly in arrears with effect from 7 July 2009.
- 13.1.3 The Employee may also be eligible for an annual performance bonus under the provisions of the Department's performance management system for SES staff outlined in Schedule 1.
- 13.1.4 Where the Employee is absent from work without approval, all pay and other benefits provided under this Determination will cease to be available until the Employee resumes work or is granted leave.

#### **13.2 Salary for Superannuation Purposes**

- 13.2.1 Superannuation entitlements are provided under the *Superannuation Act 1976*, *Superannuation Act 1990* and the *Superannuation Act 2005*.
- 13.2.2 If you are not a member of the CSS, PSS or PSSAP you will continue to have contributions paid in accordance with the *Superannuation (Productivity Benefit) Act 1988* and the *Superannuation Guarantee (Administration) Act 1992*.

*Note: An employee's superannuation entitlements may be varied by agreement with the employer in certain circumstances.*

#### **13.3 Higher Duties**

- 13.3.1 Subject to clause 13.3.2, if the Employee is selected for temporary assignment to work in a higher SES band for a continuous period of 21 calendar days or more, the Employee will be paid at a salary point in that classification nominated by the Assistant Secretary, Staffing Branch. In setting the pay point, the Assistant Secretary, Staffing Branch may give consideration to whether partial performance of the duties of the higher position is involved.
- 13.3.2 If the Employee acts as Chargé (i.e. at an overseas post) for 21 calendar days or longer they will be paid at a salary point nominated by the Assistant Secretary, Staffing Branch, or his/her delegate.
- 13.3.3 Any work performed at a higher work level will be taken into account in the Employee's annual performance appraisal.

**13.4 Executive Vehicle**

- 13.4.1 The Employee will be provided with a private plated vehicle or an allowance in lieu in accordance with the Department's Executive Vehicle Scheme arrangements. To meet the requirement that the vehicle be made available for business use, the Department will provide parking for the vehicle.
- 13.4.2 In the event that the Employee, while on an overseas assignment, is provided with an armoured vehicle for official and private use, the option for an allowance in lieu of a vehicle will be defined by departmental guidelines issued from time to time, if any such option is allowed under such guidelines.
- 13.4.3 If an allowance in lieu is taken, access to departmentally controlled parking spaces will be defined by departmental guidelines issued from time to time, if any such option is allowed under such guidelines.

**13.5 Language Proficiency Allowance (LPA)**

- 13.5.1 In accordance with the Department's policy of rewarding staff for the long-term retention of proficiency in priority foreign languages, the Employee will be paid a taxable fortnightly language proficiency allowance at a rate commensurate with the level achieved in an officially recognised language test. The rates of LPA may be amended from time to time.

**13.6 First Aid Allowance**

- 13.6.1 Where the Employee possesses a current recognised first aid certificate and continuing ability to undertake first aid responsibilities the Employee will be paid a taxable fortnightly first aid allowance as set out in the HRM.

**13.7 Salary Packaging**

- 13.7.1 The Employee may elect to sacrifice salary for non-monetary benefits in accordance with salary packaging guidelines as set down by the Department. Any fringe benefits tax and administrative costs incurred as a result of the Employee's remuneration packaging arrangements will be met by the Employee.

**14 Leave****14.1 Specified Holidays**

- 14.1.1 The Employee is entitled to 14 specified holidays (this includes public holidays and other days determined by the Department) a year. The public holidays to be observed in Canberra will be advised by First Assistant Secretary, Corporate Management Division (FAS CMD). Outside Canberra, public holidays will be advised by State Offices and posts, after giving consideration to operational requirements and relevant local factors.

- 14.1.2 The Employee is entitled to observe the following 7 holidays each year and will be paid salary as if that day were not a public holiday:
- New Year's Day (or substitute);
  - Australia Day (or substitute);
  - Good Friday;
  - Easter Monday ;
  - ANZAC Day (or substitute);
  - Christmas Day (or substitute);
  - Boxing Day (or substitute).
- 14.1.3 In Australia, the Employee is also entitled to public holidays declared by the State or Territory in which they work. (Commonly these may include the Queen's Birthday holiday, the Labour Day holiday and, if the Employee is in the Australian Capital Territory, the Canberra Day holiday).
- 14.1.4 Other specified holidays determined by the Department may include:
- APS Christmas leave day (observed during the period between Christmas Day and New Year's Day);
  - two DFAT holidays observed in the Christmas Day and New Year's Day period, as determined by FAS CMD.
- 14.1.5 If the Employee is on an overseas assignment, the Employee may be requested to work on a public holiday listed in paragraph 14.1.2 and, in lieu of that particular public holiday worked, be given an alternative holiday, as determined by post management. The Employee may refuse the request (and take the public holiday off) if the Employee has reasonable grounds for doing so and in these circumstances will not be given the alternative day off. The factors determining whether an Employee's refusal is on reasonable grounds are set out in the HRM.

## 14.2 Recreation Leave

- 14.2.1 The Employee is entitled to 22 days paid annual leave for each 12 month period. Annual leave will accrue on a prorata basis and will be credited each fortnight, in arrears. The Employee may only access annual leave that is credited to him/her.
- 14.2.2 The Employee is required to obtain the prior authorisation of his/her supervisor before taking annual leave. Supervisors are required to process

leave applications promptly. The supervisor may refuse to authorise a period of annual leave where it is necessary to do so due to operational requirements.

- 14.2.3 Where the Employee works on a part-time basis, pro rata adjustments to annual leave credits will be made and periods of leave without pay will not count as service. If the Employee is an ongoing Employee, accrued credits will be paid out on termination of employment, including any pro rata amounts accumulated since the last credit, less adjustments as appropriate for periods not counting as service and any deemed recreation leave credits held in SES leave banks.
- 14.2.4 Subject to clause 14.15, where the Employee has annual leave credited to him/her of more than one-thirteenth of the number of nominal hours worked by the Employee during the period of 104 weeks (i.e. more than 40 days' annual leave credit if the Employee works full-time, pro rata if the Employee works part-time) ending on 1 July each year, the Employee will be directed to take an amount of annual leave equal to:
- i) one quarter of the Employee's total annual leave credit; or
  - ii) the number of days required to reduce the Employee's total annual leave credit to 33 days (or pro rata if the Employee works part-time);
- whichever is the lesser amount.
- 14.2.5 On 1 March each year, if the Employee was directed to take annual leave on the previous 1 July in accordance with sub-paragraph 14.2.4 (i) the Employee's credited annual leave balance will be reviewed and if on that date the Employee has annual leave credited to him/her of more than one-thirteenth of the number of nominal hours worked by the Employee during the period of 104 weeks (i.e. more than 40 days' annual leave credit if the Employee works full-time, pro rata if the Employee works), the Employee will be directed to take an amount of annual leave equal to:
- i) one quarter of the Employee's total annual leave credit; or
  - ii) the number of days required to reduce the Employee's total annual leave credit to 33 days (pro rata if the Employee works part-time);
- whichever is the lesser amount.
- 14.2.6 The Employee and his/her supervisor will develop arrangements to ensure compliance with the maximum carryover stipulated above.
- 14.2.7 Where, in exceptional circumstances, the employee is prevented from taking leave for operational reasons, Assistant Secretary, Remuneration and Post Management Branch may defer the direction to take leave. Requests for deferral must be supported by the Employee's supervisor.
- 14.2.8 Arrangements for directing ongoing Employees on long term leave to take excess leave credits will be considered on a case-by-case basis.

- 14.2.9 **Non-ongoing Employees** not engaged on an irregular or intermittent basis will accrue annual leave on a pro rata basis from the commencement of employment.
- 14.2.10 The Secretary may, from time to time for operational reasons, offer the Employee the opportunity to forgo an amount of annual leave that is credited to the Employee, up to a maximum of one-twenty-sixth of the nominal hours worked by the Employee in a 12 month period, and provided that the Employee's remaining annual leave balance will be at least 22 days.
- 14.2.11 Where the Employee has been offered the opportunity to forgo an amount of annual leave by the Secretary the Employee may elect to forgo that amount of annual leave by giving his/her election in writing to the Secretary.
- 14.2.12 The Secretary will consider the Employee's election and after giving due consideration to operational requirements, the Employee's circumstances and the need to ensure that the Employee has adequate periods of recreation and rest from work, may authorise the Employee to forgo the amount of annual leave.
- 14.2.13 In the event that the Secretary authorises an Employee to forgo an amount of annual leave, the Employee will receive pay in lieu of the amount of annual leave forgone at a rate that is no less than the Employee's basic periodic rate of pay at the time that the Employee makes the election to forgo the amount of annual leave.

### **14.3 Additional Hardship Leave**

- 14.3.1 Additional Hardship Leave (AHL) applies to some hardship posts overseas and remote localities within Australia. In line with Working Smarter principles, AHL credits should be used in the year that they accrue. If the Employee maintains over 12 months' AHL credits on 1 July each year, and on 1 July in each subsequent year, they will be directed to take AHL for a period equal to the excess credit.

### **14.4 Payment on Death**

- 14.4.1 Where the Employee dies, or the Secretary directs that the Employee will be presumed to have died on a particular date, the Secretary may authorise the payment of any accrued leave entitlement to the Employee's surviving spouse, dependants or estate. Any such payment may be reduced by the amount of any monies owed to the Department by the Employee.

### **14.5 Personal / Carer's Leave**

- 14.5.1 If the Employee works full-time his/her annual entitlement of paid personal/carers' leave (PCL) is 20 days. If the Employee works part-time they receive a pro rata of the full-time entitlement. There is no limit on the level of unused credits of PCL that can be accumulated.



- 14.5.2 If the Employee is an ongoing employee his/her PCL will be credited annually in advance. If the Employee is an ongoing employee they will be credited with 20 days PCL, applied pro rata if the Employee works part-time, on the date of engagement. Further PCL will be credited, in advance, on the completion of each 12 months of service. Existing half pay credits are able to be converted to full pay PCL credits.
- 14.5.3 Any leave without pay not to count as service that occurs within a PCL accrual year that is in excess of 30 calendar days will defer the PCL accrual date by an equivalent number of days.
- 14.5.4 If the Employee is a full-time non-ongoing employee they will accrue PCL as follows, applied pro rata if the Employee works part-time:
- i) For continuous service of 12 months or less, 6.25 hours PCL will accrue and be credited each month, in arrears;
  - ii) After 12 months continuous service, the non-ongoing employee will then be credited with 30 days' PCL. Thereafter, the non-ongoing employee will be credited with PCL at the same rate and in the same manner as for ongoing employees;
  - iii) Unused PCL credits may be accumulated annually. Accumulated credits will be maintained subject to the requirements in sub-paragraph iv) below;
  - iv) PCL credits will be accrued over consecutive contract periods where there is no break in employment. A break is defined as any period greater than five working days. Such breaks will not count as service.
- 14.5.5 A medical certificate from a registered health practitioner for personal illness, or if not reasonably practicable to do so a statutory declaration, is to be produced by the Employee for absences exceeding three consecutive days, and/or for absences in excess of seven days within a calendar year.
- 14.5.6 Employees may use their PCL to provide care or support to a member of the employee's family, or a member of the employee's household, who requires care or support because of a personal illness, personal injury or an unexpected emergency.
- 14.5.7 In relation to carer's leave, an employee must provide a medical certificate from a registered health practitioner, or if not reasonably practicable, a statutory declaration, confirming personal illness or personal injury affecting a family member, or a member of the employee's household, for absences exceeding three consecutive days, and/or for absences in excess of seven days within an accrual year.
- 14.5.8 If the Employee has exhausted his/her PCL they are entitled to 2 days unpaid carer's leave for each occasion where a member of the Employee's immediate family or household requires care because of personal illness, injury or an unexpected emergency.

14.5.9 If the Employee is not entitled to paid maternity or adoption leave they are entitled to access up to three weeks of paid PCL following the birth of his/her child or when they adopt a child.

#### 14.6 Compassionate Leave

14.6.1 The Employee is entitled to two days paid compassionate leave for each occasion where a member of the Employee's immediate family or household contracts an illness, or sustains an injury that poses a serious threat to his/her life, or dies. This leave will count as service for all purposes. In addition, the Employee may use one day of PCL for each occasion of compassionate leave.

#### 14.7 Maternity Leave

14.7.1 In accordance with the *Maternity Leave (Commonwealth Employees) Act 1973*, the Department will provide maternity leave to female employees who become pregnant.

14.7.2 Where the Employee is eligible for paid maternity leave, and wishes to take a consecutive period of unpaid maternity leave, she may elect to spread the payment for the period of mandatory absence over a period of 24 weeks at half her salary. For the purpose of calculating the period of service of an employee who makes such an election, that part of her maternity leave for which she is paid is the first 12 weeks.

14.7.3 In addition to the Employee's entitlement for paid maternity leave under the *Maternity Leave (Commonwealth Employees) Act 1973* the Department will provide paid maternity support of an additional two weeks paid leave to female employees who become pregnant. The leave will be scheduled to occur immediately after any entitlement to paid maternity leave under the *Maternity Leave (Commonwealth Employees) Act* finishes. This leave will be considered part of the total maternity leave period taken by an employee.

#### 14.8 Adoption Leave

14.8.1 If the Employee has 12 months qualifying service and adopts a child and has a primary carer role for that child, the Employee may take a total of 12 weeks' paid leave and 40 weeks' unpaid leave from the day of placement of the child with the Employee for adoption, as defined in the *Workplace Relations Act*. The Employee may elect to be paid in the manner outlined in paragraph 14.7.2. Where the Employee does not have 12 months qualifying service, the leave will be unpaid.

14.8.2 In addition to the entitlement to paid adoption leave set out in paragraph 14.8.1, the Department will provide paid adoption support of an additional two weeks paid leave to an employee who has the primary carer role. The leave will be scheduled to occur immediately after paid adoption leave set out in paragraph 14.8.1 finishes. Any leave taken pursuant to this paragraph will be deducted from the entitlement to 40 weeks of unpaid leave provided for in paragraph 14.8.1.

14.8.3 Where the Employee is the secondary carer of the adopted child, he/she is entitled to provisions equivalent to those for parental leave as outlined in paragraph 14.9.1.

#### **14.9 Parental Leave**

14.9.1 An employee with 12 months qualifying service at the date of birth of a child or placement of a child for adoption and who has responsibility for the care of the child may take unpaid parental leave of up to 12 months, less any period of maternity, adoption or PCL (pursuant to paragraphs 14.5.8, 14.7.1 and 14.8.1) that the employee has taken. Parental leave be taken in one continuous period.

14.9.2 Any application to extend the period of unpaid parental leave, or leave approved under paragraph 14.7.1 and 14.8.1, of the Employee for a further 12 months, immediately following the end of the initial 12 month period, will be agreed by the Department.

14.9.3 The Employee may also be entitled to access PCL as outlined in paragraph 14.5.8.

#### **14.10 Long Service Leave**

14.10.1 The Employee's entitlement to long service leave is in accordance with the *Long Service Leave (Commonwealth Employees) Act 1976*.

14.10.2 The Employee may access long service leave for a minimum period of seven calendar days at any one time.

#### **14.11 Ceremonial Leave**

14.11.1 Ceremonial leave may be granted to Indigenous employees.

#### **14.12 Defence and Emergency Services Leave**

14.12.1 Defence and emergency services leave may be granted to employees who are defence reservists or community service volunteers. Details are contained in the HRM.

#### **14.13 Purchased Leave**

14.13.1 The purchased leave scheme allows employees to purchase up to four weeks additional leave per year, with salary payments averaged over the whole year to ensure that a standard rate is received each fortnight. Purchased leave will not affect entitlements to other forms of leave. Employees wishing to access the purchased leave scheme can apply to 'purchase' between one and four weeks' leave. An application may be made at any time and once approved will remain in force for 12 months after the approval. An application for purchased leave must be approved in accordance with the HRM.

#### **14.14 Portability of Leave**

- 14.14.1 Where an employee joins the Department from an employer staffed under the *Public Service Act 1999*, the *Parliamentary Service Act 1999*, or from the ACT Public Service, accrued annual leave and Personal Carer's Leave (however described) will be transferred, provided there is no break in continuity of service.

#### **14.15 Leave Bank**

- 14.15.1 Notwithstanding the provisions of clause 14.2.4 the Employee may participate in a "leave bank" arrangement which applies in situations where an SES employee is not absent from work but would by virtue of clause 14.2.4 otherwise have been directed to be on recreation leave. The deemed recreation leave credits will be held in a leave bank.
- 14.15.2 Subject to clause 14.15.3, the amount of paid annual leave which the Employee may accumulate in the leave bank is 33 days.
- 14.15.3 Any leave held in the leave bank prior to 1 July 2004 has been grandfathered and is to be treated separately to leave accumulated in the leave bank since 1 July 2004. No additional credits will be allowed to be added to this grandfathered leave credit. Any grandfathered leave credit will not count towards the 33 days leave which the Employee may accumulate pursuant to clause 14.5.2.
- 14.15.3 Recreation leave taken is deducted from credits held by the Employee in the following order:
- (i) first from the SES leave bank;
  - (ii) then from the normal recreation leave and additional recreation leave credits; and
  - (iii) lastly from excess leave credits in the grandfathered leave bank.

### **15 Travel**

#### **15.1 Domestic and Overseas Travel**

- 15.1.1 The Employee is entitled to fly business class both within Australia and overseas while on official business. Where business class travel is not available on international routes the Employee may travel first class. The Department's policy intention is that all staff, including SES staff, will use business class for international travel wherever it is available.
- 15.1.2 The Employee may use an approved corporate credit card to charge, in accordance with the guidelines in the HRM, reasonable expenses in relation to accommodation and meal costs incurred while travelling on official business both within Australia and overseas.
- 15.1.3 Frequent flyer points accrued at the department's expense should not be used for personal travel or private purposes.

## 15.2 Spouse Travel

- 15.2.1 An annual amount which may be applied, at the Employee's discretion, towards spouse-accompanied travel, has been taken into account in determining the Employee's salary specified in clause 13.1. However, travel may be approved if it is deemed appropriate for a spouse to accompany the Employee for official representational purposes.

## 16 Overseas Conditions of Service

- 16.1 If the Employee serves overseas on a long-term posting they will receive a conditions package which will include, as determined appropriate to the post, a cost of living allowance (with provision for at least biannual review and adjustment) and a hardship allowance. The package will also include accommodation, health care, assistance with children's education, reunion fares and other conditions of service as determined by the Secretary. In addition, the Employee will receive a cost of posting allowance which is updated annually in line with salary movements.

## 17 Staff Support and Welfare Services

- 17.1 The Department recognises that the Employee may at times operate under difficult and stressful circumstances and is committed to providing a solid support network for the Employee and his/her family.
- 17.2 The Department provides support services including the Medical Unit, the Occupational Health and Safety and Rehabilitation Case Manager, the Staff Counselling Office and the Family Liaison Officer (FLO) and the Community Liaison Officer network.
- 17.3 The Staff Counselling Service is on call 24 hours a day, seven days a week for emergency counselling assistance. If the Employee works in a State, Territory or Passport Office he/she will have access to equivalent clinical services through contracted service providers. The Service provides confidential counselling support on work or personal matters to both the Employee and his/her family.
- 17.4 The FLO provides information, support and assistance to the Employee, in Australia and overseas, on a wide range of general and personal issues, including information for the Employee and his/her family preparing for or returning from a posting and assistance to the Employee and his/her family temporarily evacuated to Australia due to a crisis at post.
- 17.5 The Employee will be entitled to a free influenza vaccination once a year, as set out in the HRM.

## 18 Child Care

- 18.1 The continued provision within the R.G. Casey Building of the Currawong Childcare Centre demonstrates the Department's commitment to assist employees balance professional and personal responsibilities. As an Employee of the Department, the Employee has priority over employees from any other organisation in securing

childcare places at the Centre.

- 18.2 Allocation of places at the Centre is managed by Centre management, in consultation with the Department, through a system in which applicants are awarded points for a number of criteria. DFAT families returning unexpectedly from post for operational reasons and at the Department's initiative will receive higher priority access to the Centre in accordance with the allocation policy. The Department offers salary packaging of childcare fees for its employees with children in care at the Currawong Childcare Centre, as well as salary packaging of childcare fees for its employees with children in care at childcare centres associated with other APS agencies, consistent with taxation legislation and rulings.
- 18.3 The Department will reimburse additional childcare costs where the Employee is required by management to increase his/her hours of work to cover emergency situations or to meet short-term work commitments, including short-term missions.

## **19 Emergency Care of Dependants**

- 19.1 Subject to the provisions of clause 14.5.6, the Employee may access Personal Carer's Leave (PCL) to care for sick dependants or, where feasible, work from home.
- 19.2 In exceptional circumstances, where a dependant is sick but the Employee has pressing work requirements, the Department may reimburse the Employee for the costs of commercially-provided emergency care for that dependant up to an amount corresponding to the standard rates charged by local reputable providers. Reimbursement is available for up to a maximum of five days per year. The Employee must obtain prior approval for this care from his/her Division Head or, if overseas, HOM/HOP (or other SES employee at post). If the Employee is a HOM/HOP he/she must obtain prior approval for this care from the HOM/SES Unit. If the Employee is a Division Head or a Deputy Secretary, prior approval from this care must be obtained from the Secretary.

## **20 Relocation Assistance**

- 20.1 If the Employee is recruited or transferred at departmental initiative within Australia, the Employee will receive reasonable relocation expenses including, where appropriate, temporary accommodation allowance, as determined by the Secretary.
- 20.2 A relocated Employee who resigns or retires at the completion of his/her service may claim reasonable relocation costs within Australia when returning to his/her former locality, to the locality from which recruited, or up to equivalent costs if they relocate to a different locality.
- 20.3 Relocation entitlements vary depending on timing of resignation or retirement prior to **completion** of service. Provisions relating to relocation entitlements are detailed in the HRM.

## **21. Additional Terms and Conditions**

- 21.1 General

- 21.1.1 Any benefits provided to the Employee as detailed under this clause are binding on the Department only for as long as the employee remains in the employment of the Department.
- 21.1.2 The Employee may use the mobile phone and other home office facilities provided to the Employee for incidental private purposes subject to the Department's guidelines.
- 21.2 Mobile Telephone
- 21.2.1 It is a condition of the Employee's employment that they must be reasonably able to be contacted during periods when absent from his/her usual workplace. In consideration of this requirement, the Employee will be provided by the department with a mobile telephone for both work and reasonable personal use. All costs associated with the supply of the mobile telephone will be met by the department on presentation by the Employee of the supporting documentation/receipts requested by the Department. The Employee is required to meet the cost of personal calls in excess of the reasonable personal use limit.
- 21.3 Airport Lounge membership
- 21.3.1 The Employee may take out membership of at least one airline club lounge the annual cost of which will be met by the Department. The annual cost of a second airport lounge membership, which may be taken out at the Employee's discretion, has been taken into account in determining the Employee's salary as set out in clause 13.1.
- 21.4 Fuel Card
- 21.4.1 The Employee will be provided with a fuel card solely for use with respect to a vehicle provided to the Employee under the Executive Vehicle Scheme. The fuel card may be used for all fuel purchases and commercial car wash services in respect of the vehicle. Consistent with the *Financial Management and Accountability Act 1997*, an amount representing the personal contribution for private benefit accruing from the use of the fuel card during leave and non-leave periods has been taken into account in determining the Employee's salary as set out in clause 13.1. The Employee will provide the Department with supporting documentation/receipts requested by the Department.
- 21.5 Professional Development Expenses
- 21.5.1 The Employee will not be considered eligible for any Studybank provisions otherwise applying to employees of the department. An annual amount which, at the Employee's discretion, may be applied towards professional development activities has been taken into account in determining the Employee's salary as set out in clause 13.1.
- 21.5.2 An annual amount which, at the Employee's discretion, may be applied towards membership of professional associations has been taken into account in determining the Employee's salary as set out in clause 13.1.

## **22 Termination of Employment**

- 22.1 Subject to, and consistent with, the terms of the *Public Service Act 1999* and the *Workplace Relations Act 1996*, the Secretary may terminate the employment of the Employee.
- 22.2 The Employee may terminate the employment relationship by giving at least two weeks notice.
- 22.3 Nothing in this Determination prevents the Secretary from terminating the employment of the Employee for serious misconduct, without further notice or payment in lieu, in accordance with section 117 of the *Fair Work Act 2009* subject to compliance with the procedures established by the Secretary for determining whether an Employee has breached the APS Code of Conduct under section 15 of the *Public Service Act 1999*.
- 22.4 The sole and exhaustive rights and remedies of the Employee in relation to termination of employment are those that the Employee enjoys under:
- i) Part 3.2 of the *Fair Work Act 2009*;
  - ii) other Commonwealth laws (including the Constitution); and
  - iii) common law.
- 22.5 Termination of or a decision to terminate employment cannot be reviewed under the dispute resolution procedures outlined in clause 24.
- 22.6 A current security clearance is an essential qualification for performing duties in the department and is also a condition of employment in the department. If the Employee loses his/her security clearance, or the level of the Employee's security clearance (except for operational reasons) is reduced, then employment of the Employee may be terminated.

## **23 Dispute Resolution**

- 23.1 The parties to the dispute must genuinely attempt to resolve the dispute at the workplace level.
- 23.2 If a matter in dispute cannot be resolved at the workplace level, a party to the dispute may submit the dispute to mediation in accordance with, and subject to, The Institute of Arbitrators & Mediators Australia Mediation and Conciliation Rules.
- 23.3 Conduct during dispute



- 23.3.1 An Employee who is a party to a dispute must, while the dispute is being resolved:
- a) continue to work in accordance with his/her terms and conditions of employment, unless the Employee has a reasonable concern about an imminent risk to his or her health or safety; and
  - b) comply with any reasonable direction given by the Secretary to perform other available work, either at the same workplace or at another workplace.
- 23.3.2 In directing an Employee to perform other available work, the Secretary must have regard to:
- a) the provisions (if any) of the law of the Commonwealth or of a State or Territory dealing with occupational health and safety that apply to that Employee or that other work; and
  - b) whether that work is appropriate for the Employee to perform.

### Schedule 1 - Performance Management

1. The performance appraisal cycle will be from 1 July 2009 to 31 March 2010 and 1 April to 31 March thereafter. Performance assessment will be based on a performance agreement established with the Employee's supervisor at the beginning of the performance cycle or when the Employee commences duty under this determination if that is at a time other than 1 July 2009 or 1 April in subsequent years.
2. The performance arrangement will reflect relevant work level standards and identify the Employee's training and development needs as agreed between the Employee and the Employee's immediate supervisor. The Department aims to provide access to training and development opportunities consistent with these needs.
3. The Employee may be eligible to receive a performance bonus once the performance rating has been approved by the Senior Executive.
4. The following bonus payments will apply:

<b>Performing exceptionally</b>	2 per cent of annual base salary
<b>Performing well</b>	2 per cent of annual base salary
<b>Requires development</b>	No performance reward
<b>Does not meet expectations</b>	No performance reward and the employee will be subject to the under-performance provisions outlined in the Performance Management Manual. The Senior Executive is the key decision-maker in SES performance appraisal.

5. Any bonus granted will be taxed at source.
6. The Employee may have more than one rating in any given performance appraisal cycle provided they have worked in each position for at least 100 work days, including paid leave, during the performance appraisal cycle. Where more than one rating is awarded, the bonus is calculated on a pro rata basis according to the length of time served in each position.
7. Performance bonus payments will be paid on base salary as at the time of the payment.