



# DECISION

*Fair Work Act 2009*  
s.185—Enterprise agreement

**National Gallery of Australia**  
(AG2024/835)

## **NATIONAL GALLERY OF AUSTRALIA ENTERPRISE AGREEMENT 2024 - 2026**

Commonwealth employment

DEPUTY PRESIDENT DEAN

CANBERRA, 28 MARCH 2024

*Application for approval of the National Gallery of Australia Enterprise Agreement 2024 - 2026.*

[1] An application has been made for approval of an enterprise agreement known as the *National Gallery of Australia Enterprise Agreement 2024 – 2026* (the Agreement). The application was made pursuant to s.185 of the *Fair Work Act 2009* (the Act). It has been made by National Gallery of Australia. The Agreement is a single enterprise agreement.

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

[3] CPSU, the Community and Public Sector Union and the Construction, Forestry and Maritime Employees Union, being bargaining representatives for the Agreement, have given notice under s.183 of the Act that they want the Agreement to cover them. In accordance with s.201(2) I note that the Agreement covers the organisations.

[4] The Agreement is approved and, in accordance with s.54 of the Act, will operate from 4 April 2024. The nominal expiry date of the Agreement is 26 October 2026.

The signature of the Deputy President is written in cursive to the left of the official seal. The seal is circular and contains the text 'THE SEAL OF THE FAIR WORK COMMISSION' around the perimeter. In the center of the seal is the Australian coat of arms, featuring a kangaroo and an emu flanking a shield with a seven-pointed star above it, and the word 'AUSTRALIA' below.

DEPUTY PRESIDENT

Printed by authority of the Commonwealth Government Printer

[2024] FWCA 1116

<AE524001 PR772845>



# National Gallery of Australia

Enterprise Agreement

2024 - 2026



Lindy Lee, *Ouroboros* details at UAP Company, Brisbane, 2022

Image by Josef Ruckli

## Table of Contents

<b>Section 1: Technical matters</b> .....	<b>7</b>
Title.....	7
Parties to the Agreement .....	7
Operation of the Agreement .....	7
Delegations .....	7
National Employment Standards (NES) precedence .....	7
Closed comprehensive Agreement .....	7
Review of employment related actions.....	8
Individual flexibility arrangements .....	8
Usual location of work.....	9
<b>Section 2: Employment Framework</b> .....	<b>10</b>
Employment types .....	10
Classification and structure.....	10
Broadbanding .....	10
Probation .....	10
Selection, recruitment and appeals .....	11
<b>Section 3: Remuneration</b> .....	<b>12</b>
Salary .....	12
Payment of salary.....	12
Salary setting.....	12
Salary advancement.....	13
Salary on reduction.....	13
Superannuation .....	13
Method for calculating superannuation salary.....	14
Payment during unpaid parental leave.....	14
Salary packaging .....	14
Overpayments.....	14
Supported wage system .....	15
Apprentice rates.....	15
<b>Section 4: Allowances and reimbursements</b> .....	<b>16</b>
Higher duties allowance .....	16
Workplace responsibility allowances .....	16
Motor vehicle allowance.....	17
Laundry allowance.....	17
Overtime meal allowance.....	17
Footwear reimbursement .....	18
Trade related allowances.....	18

Community language allowance.....	18
Restriction allowances.....	19
Reimbursement for loss or damage.....	20
<b>Section 5: Working hours and arrangements .....</b>	<b>21</b>
Casual (irregular or intermittent) employment .....	21
Non-ongoing employment .....	21
Shiftworkers.....	21
Working hours .....	22
Ordinary hours of work .....	22
Bandwidth .....	23
Working patterns .....	23
Breaks .....	23
Flex for NGA Level 1-6 classifications.....	23
Executive Level Time Off in Lieu (EL TOIL) .....	24
Overtime .....	25
Overtime for employees other than shiftworkers .....	25
Overtime for shiftworkers .....	26
Overtime rates.....	26
Time off in lieu .....	27
Emergency duty.....	27
Rest period after overtime .....	27
Flexible working arrangements.....	27
Requesting formal flexible working arrangements.....	28
Varying, pausing or terminating flexible working arrangements .....	29
Working from home .....	30
Ad-hoc arrangements .....	30
Altering span of hours .....	30
Part-time work.....	30
Requesting part-time work .....	31
Part-time work arrangements.....	31
Remuneration, allowances and entitlements .....	31
Job-sharing arrangements .....	31
Public holidays .....	32
Christmas closedown.....	33
<b>Section 6: Leave.....</b>	<b>34</b>
General (leave).....	34
Annual leave .....	34

Annual leave cash out .....	35
Excess annual leave.....	35
Purchased leave .....	35
Recall to duty.....	35
Personal/carer's leave.....	35
Portability of leave.....	37
Re-crediting of leave .....	38
Long service leave .....	38
Miscellaneous leave.....	38
Cultural, ceremonial and NAIDOC leave.....	39
NAIDOC leave.....	39
First Nations ceremonial leave .....	39
Cultural leave.....	39
Parental leave.....	39
Payment during parental leave.....	40
Adoption and long-term foster care.....	41
Stillbirth .....	42
Pregnancy loss leave.....	42
Premature birth leave.....	42
Transitional provisions.....	42
Compassionate leave .....	42
Bereavement leave .....	42
Emergency response leave .....	43
Jury duty.....	43
Defence reservist leave.....	44
Defence service sick leave .....	44
Moving house leave .....	45
Leave to attend proceedings (witness leave) .....	45
<b>Section 7: Employee support and workplace culture .....</b>	<b>46</b>
Anti-discrimination and workplace diversity .....	46
Commitment to a safe and healthy work environment.....	46
Respect at work.....	46
Principles .....	46
Consultation .....	46
Family and domestic violence support.....	46
First Nations cultural competency training.....	48
Lactation and breastfeeding support .....	48

Disaster support .....	49
Blood donation .....	49
Vaccinations .....	49
Employee Assistance Program .....	49
Healthy Employees .....	49
Financial planning.....	49
Family care expenses.....	49
Eyesight testing .....	50
<b>Section 8: Performance and development .....</b>	<b>51</b>
Performance agreements.....	51
Managing underperformance.....	51
Code of Conduct.....	52
Workloads.....	53
Study assistance.....	53
Learning and development.....	54
<b>Section 9: Travel and location-based conditions.....</b>	<b>55</b>
Travel.....	55
Relocation assistance .....	55
<b>Section 10: Consultation, representation and dispute resolution .....</b>	<b>56</b>
Consultation.....	56
Principles .....	56
When consultation is required .....	56
Provisions for consultation on major change and introduction of a change to regular roster or ordinary hours of work of employees .....	57
Representation.....	57
Major change .....	57
Change to regular roster or ordinary hours of work .....	58
Interaction with emergency management activities .....	59
Gallery Consultative Committee (GCC) .....	59
Dispute resolution .....	59
Leave of absence to attend proceedings .....	60
Freedom of association .....	61
Employee representation.....	61
Delegates' rights.....	61
Supporting the role of union delegates .....	61
<b>Section 11: Redeployment, Retirement, Redundancy and Employee Initiated Separation (Resignation) .....</b>	<b>63</b>
Resignation .....	63

Review of decisions to terminate employment .....	63
Payment on death of an employee .....	63
Redeployment, retirement and redundancy .....	63
Consultation process .....	63
Voluntary redundancy .....	64
Period of notice.....	65
Severance benefit.....	65
Rate of payment - severance benefit.....	66
Retention periods, redeployment and retraining .....	66
Involuntary retirement .....	67
Accelerated separation arrangements for redundancy purposes .....	67
<b>Attachment A – Base salary rates.....</b>	<b>69</b>
<b>Attachment B – Additional salary rates .....</b>	<b>70</b>
<b>Attachment C – Trade related allowances.....</b>	<b>71</b>
<b>Attachment D – Supported Wage System .....</b>	<b>72</b>
Definitions.....	72
Eligibility criteria.....	72
Supported wage rates.....	72
Assessment of capacity.....	73
Lodgement of SWS wage assessment agreement.....	73
Review of assessment .....	73
Other terms and conditions of employment .....	73
Workplace adjustment .....	74
Trial period .....	74
<b>Attachment E – Definitions .....</b>	<b>75</b>
<b>Attachment F – Formal acceptance of this agreement and signatories (in accordance with regulation 2.06A of the <i>Fair Work Regulations 2009</i>).....</b>	<b>78</b>



## **Section 1: Technical matters**

### **Title**

1. This Agreement will be known as the National Gallery of Australia Enterprise Agreement 2024 – 2026.

### **Parties to the Agreement**

2. This Agreement is made under part 2-4 of the *Fair Work Act 2009* (FW Act) and, in accordance with section 53 of the FW Act, covers:
  - 2.1 the Director of the National Gallery of Australia (National Gallery);
  - 2.2 employees of the National Gallery who are employed in a classification below the Senior Executive Service Level; and
  - 2.3 subject to notice being given in accordance with section 183 of the FW Act, the following employee organisations which were bargaining representatives for this Agreement:
    - 2.3.1 the Community and Public Sector Union; and
    - 2.3.2 the Construction, Forestry and Maritime Employees Union.

### **Operation of the Agreement**

3. This Agreement will commence operation seven days after approval by the Fair Work Commission.
4. This Agreement will nominally expire on 26 October 2026.

### **Delegations**

5. The Director may, by instrument in writing, delegate or authorise any or all of the Director's powers and functions under this Agreement.

### **National Employment Standards (NES) precedence**

6. The terms of this Agreement are intended to apply in a manner that does not derogate from the NES. The NES will continue to apply to the extent that any term of this Agreement is detrimental to an employee of the National Gallery in any respect when compared with the NES.

### **Closed comprehensive Agreement**

7. This Agreement states the terms and conditions of employment of employees covered by this Agreement, other than terms and conditions applying under relevant Commonwealth laws.
8. This Agreement will be supported by policies and guidelines, as implemented and varied from time to time.
9. Policies and guidelines are not incorporated into and do not form part of this Agreement. To the extent that there is any inconsistency between policies and guidelines and the terms of this Agreement, the terms of this Agreement will prevail.

## **Review of employment related actions**

10. An employee may, within three months of a decision or action relating to their employment or working arrangements, request an internal review of that decision or action other than those relating to appeals, or termination of, or a decision to terminate, employment.
11. Details can be found in the corresponding National Gallery policy and/or guidelines.

## **Individual flexibility arrangements**

12. The National Gallery and an employee covered by this Agreement may agree to make an individual flexibility arrangement to vary the effect of terms of the Agreement if:
  - 12.1 the arrangement deals with one or more of the following matters:
    - 12.1.1 arrangements about when work is performed;
    - 12.1.2 overtime rates;
    - 12.1.3 penalty rates;
    - 12.1.4 allowances;
    - 12.1.5 remuneration; and
    - 12.1.6 leave and leave loading; and
  - 12.2 the arrangement meets the genuine needs of the National Gallery and employee in relation to one or more of the matters mentioned in clause 12.1; and
  - 12.3 the arrangement is genuinely agreed to by the National Gallery and the employee.
13. The National Gallery must ensure that the terms of the individual flexibility arrangement:
  - 13.1 are about permitted matters under section 172 of the FW Act;
  - 13.2 are not unlawful terms under section 194 of the FW Act; and
  - 13.3 result in the employee being better off overall than the employee would be if no arrangement was made.
14. The National Gallery must ensure that the individual flexibility arrangement:
  - 14.1 is in writing;
  - 14.2 includes the name of the National Gallery and the employee;
  - 14.3 is signed by the National Gallery and the employee and, if the employee is under 18 years of age, signed by a parent or guardian of the employee; and
  - 14.4 includes details of:
    - 14.4.1 the terms of the Agreement that will be varied by the arrangement;
    - 14.4.2 how the arrangement will vary the effect of the terms; and
    - 14.4.3 how the employee will be better off overall in relation to the terms and conditions of their employment as a result of the arrangement; and
  - 14.5 states the day on which the arrangement commences.
15. The National Gallery must give the employee a copy of the individual flexibility arrangement within 14 days after it is agreed to.

16. The National Gallery or the employee may terminate the individual flexibility arrangement:
  - 16.1 by giving no more than 28 days written notice to the other party to the arrangement; or
  - 16.2 if the National Gallery and the employee agree in writing – at any time.
17. The National Gallery and the employee are to review the individual flexibility arrangement at least every 12 months.

**Usual location of work**

18. The usual location of work for an employee of the National Gallery is:
  - 18.1 the National Gallery of Australia at Parkes Place East, Canberra, Australian Capital Territory;
  - 18.2 the National Gallery's offsite storage facility, Australian Capital Territory; and/or
  - 18.3 such other location(s) as may be determined by the Director.

## **Section 2: Employment Framework**

### **Employment types**

19. Employees of the National Gallery are employed in one of the following categories:

19.1 ongoing;

19.2 non-ongoing; or

19.3 casual.

The definitions for each employment category in clauses 19.1 to 19.3 are set out in Attachment E.

### **Classification and structure**

20. The National Gallery will maintain Work Level Standards in consultation with the Gallery Consultative Committee (GCC).

21. Positions within the National Gallery will be classified in accordance with the Work Level Standards and employees will be paid in accordance with the classification and salary structure set out in Attachment A, or by an individual flexibility arrangement, and with the salary advancement provisions of the National Gallery's performance management strategy.

### **Broadbanding**

22. Advancement between classifications in an approved broadband role will only occur where:

22.1 the employee's performance is assessed as meeting expectations;

22.2 there is sufficient work available at the higher classification level; and

22.3 the employee has the necessary skills and proficiencies to perform that work.

### **Probation**

23. An ongoing employee, or an employee employed on a non-ongoing basis for a period in excess of six months, will be required to undergo a period of probation. Confirmation of employment will be subject to the employee satisfying the following:

23.1 health and physical fitness meets the requirements for the position to which they have been employed (as assessed by an authorised medical practitioner);

23.2 performance is assessed as effective by their supervisor at the end of the probation period;

23.3 they comply with the values and standards set out in the National Gallery's Values and Code of Conduct;

23.4 their services continue to be required by the National Gallery; and

23.5 they are an Australian citizen; or

23.5.1 the Gallery determines that the employee is otherwise suitable for employment.

24. The period of probation will be set at the time of offer of engagement.

25. Further information can be found in the corresponding National Gallery policy and/or guidelines.

### **Selection, recruitment and appeals**

26. The National Gallery is committed to the principles of equity, fairness, merit and transparency in its approach to recruitment, promotion, transfer and advancement.
27. An appeals process for unsuccessful applicants for promotion to an ongoing position on the grounds of merit, up to and including an NGA Level 6, may be lodged within 14 days of notification of the selection outcome. Further information can be found in the corresponding National Gallery policy and/or guidelines.

## Section 3: Remuneration

### Salary

28. Salary rates will be as set out in Attachment A.
29. The base salary rates in Attachment A include the following increases:
  - 29.1 4.0 per cent increase effective from 27 October 2023, payable to employees who are employed by the National Gallery as at the date of commencement of this Agreement or after the date of commencement of this Agreement, and to whom the Agreement applies. Any entitlement under this clause will be paid from the first full pay period after commencement of the Agreement;
  - 29.2 3.8 per cent from the first full pay period on or after 27 October 2024; and
  - 29.3 3.4 per cent from the first full pay period on or after 27 October 2025.

### Payment of salary

30. Employees will be paid fortnightly in arrears by electronic funds transfer into a financial institution account of the employee's choice, based on their annual salary using the following formula:

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

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

### Salary setting

31. Where an employee is engaged, or is promoted in the National Gallery, the employee's salary will be paid at the minimum pay point of the relevant classification, unless the Director determines a higher salary within the relevant classification under these provisions.
32. The Director may determine the payment of a higher salary within the relevant classification and the date of effect at any time.
33. In determining a salary under these provisions, the Director will have regard to a range of factors (as relevant) including the employee's experience, qualifications and skills.
34. Where an employee commences ongoing employment in the National Gallery immediately following a period of non-ongoing employment in the National Gallery for a specified term or task, the Director will determine the payment of the employee's salary within the relevant classification which recognises the employee's prior service as a non-ongoing employee in the National Gallery.
35. Where an employee commences ongoing employment in the National Gallery immediately following a period of casual employment in the National Gallery, the Director will determine the payment of the employee's salary within the relevant classification which recognises the employee's prior service as a casual employee in the National Gallery.
36. Where the Director determines that an employee's salary has been incorrectly set, the Director may determine the correct salary and the date of effect.

## **Salary advancement**

37. Each classification level has a salary range and one or more pay points attached to it. Advancement through pay points within each classification level will be based on an assessment of an employee's performance in the context of the employee's effectiveness in performing their roles and responsibilities as outlined in their performance agreement. Refer to clause 22 for advancement between classifications in a broadband.
38. Subject to satisfactory performance, all employees have a common salary advancement date of 1 October. Ongoing and non-ongoing employees engaged by the National Gallery after 1 October and prior to 31 March of the following year will be eligible for salary advancement, subject to satisfactory performance, on 1 October of their first year of employment with the National Gallery.
39. Ongoing employees and non-ongoing employees engaged by the National Gallery between 1 April and 30 September will be eligible for salary advancement, subject to satisfactory performance, on 1 October of their second year of employment with the National Gallery.
40. Where it is considered an employee has demonstrated outstanding performance over an annual performance cycle they may have salary advancement within a classification accelerated with approval of the Director. Accelerated advancement through the hard barrier of a broadband is not possible, as the employee must be at the top pay point of the lower classification for a period of twelve months before progressing through the broadband.
41. Casual employees are required to work at least 40% of the ordinary hours of a full-time employee over the performance cycle in order to be eligible for salary advancement. This equates to 104 working days.
42. During a period of unpaid parental leave, employees will be eligible to advance a maximum of one increment, regardless of the length of unpaid parental leave.

## **Salary on reduction**

43. Where an employee permanently transfers to a lower classification (for reasons other than misconduct or underperformance), the Director will determine in writing that the employee's salary will be at the top pay point in the lower classification.
44. Where an employee is involuntarily transferred to a lower classification, the Director may grant the payment of income maintenance to maintain their salary at the previous higher classification level for a period of up to six months to assist the employee during the transitional period.

## **Superannuation**

45. The National Gallery will make compulsory employer contributions as required by the applicable legislation and fund requirements.
46. Employer superannuation contributions will be paid on behalf of employees during periods of paid leave that count as service. Employer superannuation contributions will not be paid on behalf of employees during periods of unpaid leave that do not count for service, unless otherwise provided by clause 51 or required under legislation.
47. The National Gallery will make employer superannuation contributions to any eligible superannuation fund, provided that it accepts payment by fortnightly electronic funds transfer (EFT) using a file generated by the National Gallery's payroll system.

#### *Method for calculating superannuation salary*

48. The National Gallery will provide an employer contribution of 15.4% of an employee's:
  - 48.1 Fortnightly Contributions Salary, if the employee is an ongoing or non-ongoing employee in the Public Sector Superannuation Accumulation Plan (PSSap) or another accumulation fund; and
  - 48.2 Ordinary Time Earnings, if the employee is a casual employee in the PSSap or another accumulation fund.
49. Employer contributions will be made for all employees covered by this Agreement.
50. Employer contributions will not be reduced by any other contributions made through salary sacrifice arrangements.

#### *Payment during unpaid parental leave*

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

#### **Salary packaging**

52. Access to the National Gallery Salary Packaging Scheme is available to all ongoing employees and non-ongoing employees whose current period of engagement is over 12 months.
53. All costs, including any fringe benefits tax and administrative costs incurred as a result of the remuneration packaging arrangement, will be met by the employee.

#### **Overpayments**

54. An overpayment occurs if the Director (or the National Gallery) provides an employee with an amount of money to which the employee was not entitled (including but not limited to salary, entitlements, allowances, travel payment and/or other amount payable under this Agreement).
55. Where the Director considers that an overpayment has occurred, the Director will provide the employee with notice in writing. The notice will provide details of the overpayment.
56. If an employee disagrees that there has been an overpayment including the amount of the overpayment, they will advise the Director in writing within 28 calendar days of receiving the notice. In this event, no further action will be taken until the employee's response has been reviewed.
57. If after considering the employee's response (if any), the Director confirms that an overpayment has occurred, the overpayment will be treated as a debt to the Commonwealth that must be repaid to the National Gallery in full by the employee.
58. The Director and the employee will discuss a suitable recovery arrangement. A recovery arrangement will take into account the nature and amount of the debt, the employee's circumstances and any potential hardship to the employee. The arrangement will be documented in writing.
59. The National Gallery and employee may agree to make a deduction from final monies where there is an outstanding payment upon cessation of employment.
60. Interest will not be charged on overpayments.



61. Nothing in clauses 54 to 60 prevents:
- 61.1 the National Gallery from pursuing recovery of the debt in accordance with an Accountable Authority Instruction issued under the *Public Governance, Performance and Accountability Act 2013*;
  - 61.2 the National Gallery from pursuing recovery of the debt through other available legal avenues; or
  - 61.3 the employee or the National Gallery from seeking approval to waive the debt under the *Public Governance, Performance and Accountability Act 2013*.

### **Supported wage system**

62. An employee may be paid a percentage of the relevant pay rate for their classification in line with their assessed capacity to do the work if they:
- 62.1 have a disability;
  - 62.2 meet the criteria for a Disability Support Pension; and
  - 62.3 are unable to perform duties to the capacity required.
63. Specific conditions relating to the supported wage system are detailed in Attachment D.

### **Apprentice rates**

64. The salary for an apprentice will be a percentage of the salary for the NGA Level 2 classification set out in Attachment A, with the relevant percentage prescribed by clause 12.5(b) of the *Australian Government Industry Award 2016*.

## Section 4: Allowances and reimbursements

### Higher duties allowance

65. Subject to clauses 67 and 70, where a role needs to be filled for two or more working weeks, higher duties allowance will be paid to an employee temporarily occupying the role acting at a classification level higher than their substantive classification level.
66. An employee directed to temporarily undertake higher duties in a Senior Executive role will be paid a higher duties allowance where the role is filled for two or more working weeks.
67. An employee in Security, the National Gallery Shop or Front of House, who is required to undertake duties of a role at a classification level higher than their substantive classification level because there is no senior employee on duty, will be paid higher duties allowance for the whole period of acting, i.e., there is no requirement for a minimum period of two weeks.
68. Higher duties allowance will be equal to the difference between the employee's current salary and the salary that would be payable if they were promoted to the higher classification level, or a higher amount determined by the Director.
69. Where an employee is found to be eligible for salary progression at their acting classification level, they will receive an appropriate increase in the rate of higher duties allowance. The employee's salary level will be retained for all future periods of acting regardless of elapsed time.
70. The Director may shorten the qualifying period for higher duties allowance on a case-by-case basis.

### Workplace responsibility allowances

71. A workplace responsibility allowance will be paid where an employee is appointed by the National Gallery (or elected by eligible peers in the case of a Health and Safety Representative) to one or more of the following roles:
  - 71.1 First Aid Officer;
  - 71.2 Health and Safety Representative;
  - 71.3 Emergency Warden;
  - 71.4 Harassment Contact Officer; and
  - 71.5 Mental Health First Aid Officer.
72. An employee is not to receive more than one workplace responsibility allowance unless approved by the Director due to operational requirements.
73. Workplace responsibility allowances will be paid at the following rate:

From 27 October 2023	From 27 October 2024	From 27 October 2025
\$30.51 per fortnight	\$31.67 per fortnight	\$32.75 per fortnight

74. The full rate of the allowance is payable regardless of flexible work and part-time arrangements.
75. An employee's physical availability to undertake a workplace responsibility role will be considered by the National Gallery when appointing and reappointing employees to these roles. This is noting that not all workplace responsibility roles will necessarily require a physical

presence in the workplace for the role to be successfully undertaken (such as Harassment Contact Officers, Mental Health First Aid Officers and Health and Safety Representatives), depending on work group arrangements.

76. Casual employees who are eligible to receive a workplace responsibility allowance will be paid the full rate of the allowance with respect to a pay cycle, provided they engage in work during any given pay cycle, irrespective of the frequency and duration of the work undertaken.
77. Where an employee is elected to perform the duties of deputy Health and Safety Representative or appointed to perform the duties of deputy First Aid Officer for a period of four weeks or more, they may be paid workplace responsibility allowance in accordance with clause 73.

### **Motor vehicle allowance**

78. Where the Director considers that it will result in greater efficiency or involve less expense, the Director may authorise an employee to use a private vehicle owned, or hired by the employee at their own expense, for official purposes. This will be subject to the employee providing proof that, for the period of the journey, they have comprehensive insurance on the vehicle, that the vehicle is registered, and that they possess a current driver's licence.
79. Where so authorised, an employee will be entitled to a motor vehicle allowance as per current Australian Taxation Office rates for vehicles of any engine capacity. The Director may vary this amount in exceptional circumstances.

### **Laundry allowance**

80. An ongoing or non-ongoing employee who is required to wear a National Gallery uniform or corporate wardrobe as part of their normal duties will be paid an allowance of \$17.00 per fortnight for employees wearing a 'casual' uniform and \$29.00 per fortnight for employees wearing a 'corporate' uniform (that is, one that requires dry cleaning).
81. Casual employees required to wear a uniform will be paid a daily allowance of \$1.76 for a 'casual' uniform and \$2.93 for a 'corporate' uniform, up to the maximum of the fortnightly allowance in clause 80.
82. Where an employee is on leave for a period of four weeks or more, they will not receive payment for this allowance for the period of the leave.

### **Overtime meal allowance**

83. An employee will be paid a meal allowance at the applicable rate set by the applicable determination made by the Australian Taxation Office as being the reasonable amount for meal allowance expenses where the employee performs overtime:
  - 83.1 after their ordinary hours of work for the day to the completion of or beyond a meal period, without a break for a meal;
  - 83.2 after the completion of their ordinary hours of work for the day and a break for a meal which occurs after those ordinary hours, where the employee is not entitled to payment for that meal break;
  - 83.3 before the commencement of their ordinary hours of work for the day, where the employee breaks for a meal and is not entitled to payment for that meal break; or
  - 83.4 on a Saturday, Sunday or public holiday extending beyond a meal break for which they are not entitled to payment, where the employee has completed their ordinary hours of work for the week.

84. A meal period means the following periods:
- 84.1 7:00 am to 9:00 am;
  - 84.2 12 noon to 2:00 pm;
  - 84.3 6:00 pm to 7:00 pm; and
  - 84.4 midnight to 1:00 am.
85. This allowance is not payable where the National Gallery pays for or provides for a meal.

### Footwear reimbursement

86. An employee who is required to wear a uniform, and spend more than 75% of their time standing, will be reimbursed up to \$300 per calendar year to purchase shoes as part of their uniform.
87. When purchasing shoes as part of a uniform, an employee will have regard to any internal guidelines issued by the National Gallery.

### Trade related allowances

88. Attachment C sets out the allowances payable to trades and related staff where their role requires work of a kind set out in the description of the allowance.
89. Where an employee is on leave, with the exception of long service leave, for a period of four weeks or more, they will not receive payment for these allowances for the period of leave. Allowances during long service leave will be paid in accordance with the *Long Service Leave (Commonwealth Employees) Act 1976* (LSL Act).

### Community language allowance

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

Rate	Standard	Rate from commencement of the Agreement	Rate from 27 October 2024	Rate from 27 October 2025
1	An employee who has adequate language skills, as determined by an individual or body approved by the Director, for simple communication	\$1435 per annum	\$1490 per annum	\$1541 per annum
2	An employee who is certified by the National Accreditation Authority for Translators and Interpreters (NAATI) as a Translator or Interpreter at any level; or is assessed to be at the equivalent level by an individual or body approved by the Director.	\$2870 per annum	\$2979 per annum	\$3080 per annum

- 92. The allowance is calculated annually and paid fortnightly.
- 93. The full rate of the allowance is payable regardless of flexible work and part-time arrangements.
- 94. The allowance is payable during periods of paid leave.
- 95. The allowance counts as salary for superannuation purposes and for calculating retirement and redundancy entitlements.

**Restriction allowances**

- 96. The Director may direct an employee to be contactable and available to perform extra duty outside of the employee’s ordinary hours of work, subject to payment of restriction allowance under these clauses.
- 97. Payment of restriction allowance is subject to the following conditions:
  - 97.1 employees above the classification of NGA Level 6 will not be eligible to receive the allowance;
  - 97.2 the restriction situation is imposed by the prior written direction of the Director, or is subsequently approved in writing by the Director (where the circumstances did not permit prior direction); and
  - 97.3 the flex arrangements provided for at clauses 133 to 144 will not apply where an employee is recalled to duty while restricted.
- 98. Restriction allowance will be calculated on the number of hours restricted and paid at the following rates:

For time restricted	Restriction allowance payable per hour (as a percentage of the employee’s hourly salary)
Monday to Friday	10%
Saturday and Sunday	10%
Public holidays	15%

- 99. An employee’s hourly salary for the purpose of calculation of the allowance under these restriction allowance clauses will include higher duties allowance and any other salary related allowances.
- 100. The allowance under these restriction allowances clauses will be payable for the number of hours that the employee is restricted outside the employee’s ordinary hours of work.
- 101. An employee who is restricted under this clause outside the employee’s ordinary hours of work and is called to duty:
  - 101.1 not at their usual location of work, payment will be made in accordance with the relevant overtime provisions subject to a 1-hour minimum payment; and
  - 101.2 at their usual location of work, payment will be made in accordance with the relevant overtime provisions subject to a 3-hour minimum payment. In addition to time spent

performing duty, thirty minutes travelling time will be paid for employees called to duty at their usual location of work for periods of more than three hours.

102. No concurrent payment: any part of a period of restriction in respect of which the employee receives payment other than in accordance with this clause will not be included in the period of restriction for the purpose of calculating the restriction allowance payable.
103. Restriction allowance will not be payable for any period in which the employee does not remain contactable or at the required degree of readiness to perform extra duty.

**Reimbursement for loss or damage**

104. The Director may approve reimbursement to an employee for loss or damage to clothing and/or personal effects that occurred in the course of the employee's work.

## **Section 5: Working hours and arrangements**

### **Casual (irregular or intermittent) employment**

105. A casual (irregular or intermittent) employee is defined in Attachment E.
106. A decision to expand the use of casual employees is subject to consultation in accordance with Section 10: Consultation, representation and dispute resolution.
107. The National Gallery will regularly review the working arrangements of casual employees to assess if they are genuinely performing irregular or intermittent duties and report de-identified outcomes to the GCC.
108. Remuneration for casual employees is on an hourly basis. A casual employee will receive a 25 per cent loading on the base hourly rate of their classification as set out in Attachment A.
109. The casual loading is paid in lieu of payment for public holidays not worked, notice of termination of employment, redundancy benefits and all paid leave entitlements, other than leave required by legislation including long service leave in accordance with the LSL Act and leave for family and domestic violence support.
110. A casual employee will be engaged for a minimum of three hours per engagement or will be paid for a minimum of three hours at the appropriate casual rate.
111. A casual employee who is eligible for a workplace responsibility allowance will be paid the full rate of the allowance.

### **Non-ongoing employment**

112. A non-ongoing employee is defined in Attachment E.
113. Non-ongoing employees will generally have the same terms and conditions of employment as ongoing employees under this Agreement's terms, except:
  - 113.1 personal/carer's leave accrual at clause 248.2; and
  - 113.2 redundancy provisions at clauses 488 to 530, subject to clause 114.
114. If the non-ongoing employee's contract is not permitted by section 333E of the FW Act, then the redundancy provisions set out in this Agreement will apply.
115. If the redundancy provisions apply to an employee under clause 114, the National Gallery must adhere to the consultation requirements at clauses 490 to 496.

### **Shiftworkers**

116. A shiftworker is an employee who is rostered to perform their ordinary hours of work outside the period of 6:30 am to 6:00 pm, Monday to Friday, and/or on Saturdays, Sundays or public holidays for an ongoing or fixed period.
117. Except at the regular change-over of shifts an employee should not be required to work more than one shift in each 24 hours.
118. A shiftworker is entitled to the following penalty rates for all ordinary hours of work worked by the shiftworker during the following periods:

Ordinary hours worked		Penalty rate (in addition to base rate of pay)	Casual penalty rate (including casual loading)
Night	Where any part of the shift falls between 6:00 pm and 6:30 am	15%	40%
Continuous night	The rostered shift falls wholly within the period 6:00 pm and 8:00 am and the employee works the shifts for a period exceeding four weeks	30%	55%
Saturday	All hours	50%	75%
Sunday	All hours	100%	125%
Public Holiday	All hours	150%	175%

119. The Saturday, Sunday and Public Holiday penalty rates are in substitution for, and not cumulative upon, the night shift penalty rates.
120. The National Gallery and a majority of affected employees may agree to average shift penalties over an agreed cycle.
121. A shiftworker on a seven-day rotating shift roster who is rostered off duty on a public holiday may be granted, if practicable, one day's leave in lieu of the holiday within one month after the holiday. If it is not practicable to grant the employee leave in lieu of the holiday, or if the employee chooses, they will be paid one day's pay at their base rate of pay instead of being granted leave in lieu of the holiday. The day's leave in lieu or payment will be calculated on the basis of the number of hours the employee would have been required to work if they had been rostered to work on the public holiday. This will not include any shift penalty.
122. Whilst on annual leave, shiftworkers will be entitled to receive shift penalty payments in relation to any shifts the employee would have worked if the employee was not on approved annual leave.
123. Where necessary as a means of meeting operational requirements, the National Gallery may introduce shiftwork or a new shift roster or cycle of shifts following consultation with affected employees and their workplace representative(s), in accordance with the relevant consultation obligations in Section 10: Consultation, representation and dispute resolution. Shift rosters will specify commencement and finishing times of ordinary hours of work of the respective shifts.
124. Security Control Room employees may be rostered for up to 12 hours per shift.

## Working hours

### *Ordinary hours of work*

125. A full-time employee (excluding a shiftworker) is required to work 37.5 hours per week. This will be 7 hours and 30 minutes per day.



- 125.1 Where an employee works their ordinary hours of work (as above) in accordance with a roster, hours may be averaged over the employee's roster cycle.
- 126. A full-time shiftworker is required to work an average of 37.5 hours per week, which may be averaged over a cycle of shifts in accordance with their roster (ordinary hours of work).
- 127. A part-time employee is an employee whose agreed ordinary hours of work are less than 37.5 hours per week in accordance with this Agreement.
- 128. A part-time shiftworker is an employee whose agreed ordinary hours of work are less than an average of 37.5 hours per week, which may be averaged over a cycle of shifts in accordance with their roster.

*Bandwidth*

- 129. The bandwidth of hours in which an employee, other than a shiftworker, will work their ordinary hours of work is 7:00 am to 7:00 pm, Monday to Friday.

*Working patterns*

- 130. For an employee who is not a casual employee or a shiftworker, the employee's pattern of work (that is, the hours between which an employee will perform their ordinary hours of work) is a matter for agreement between the supervisor and the employee. However, such employees:
  - 130.1 will make themselves available for reasonable direction to work outside their agreed pattern of work;
  - 130.2 will not be required to work more than 10 ordinary hours of work on any one day; and
  - 130.3 may be directed to work:
    - 130.3.1 standard hours of 8:30 am to 12:30 pm and 1:30 pm to 5:00 pm, Monday to Friday; or
    - 130.3.2 fixed daily hours, where the National Gallery determines that an employee in a work area should work fixed daily hours for operational reasons. The following provisions are relevant to fixed daily hours:
      - a) fixed daily hours will be determined after consultation with affected employees and, if they request, their representatives; and
      - b) employees working fixed daily hours will receive overtime payments or time off in lieu (TOIL) for additional hours performed outside of their fixed daily hours.
- 131. If an employee and their supervisor cannot reach agreement on the employee's pattern of work in accordance with clause 130, the employee will work standard hours.

*Breaks*

- 132. An employee must not work for more than five hours without taking a meal break of at least 30 minutes duration.

**Flex for NGA Level 1-6 classifications**

- 133. The following flex arrangements apply to an employee employed in a classification at NGA Levels 1 to 6 (except where an employee is a shiftworker, casual employee or where a fixed daily hours arrangement is in place).

134. Flex arrangements may apply to part-time employees if agreed between the employee and their supervisor.
135. An employee covered by flex arrangements may adjust when they work their ordinary hours of work within the bandwidth specified in clause 129 over a four-week settlement period (150 hours), commencing on a Thursday payday and finishing on a Wednesday.
136. An employee may accrue flex credits where there is an operational requirement for work to be performed outside of their ordinary hours of work and it is an efficient and effective use of their time to do that work at that time.
137. Unless there are exceptional circumstances, an employee may generally only carry over a maximum flex credit of 25 hours at the end of a settlement period. An employee and their supervisor will take joint responsibility for ensuring that flex credits do not exceed this maximum amount and that the employee is not continuing to build excessive flex credits without the opportunity to access flex leave.
138. Where an employee has a flex credit in excess of 25 hours, a request for flex leave will not be unreasonably refused. Generally, the maximum accessible flex leave in any given settlement period will be three days, subject to operational requirements.
139. The maximum flex debit will be 10 hours. An employee and their supervisor will take joint responsibility for ensuring that flex debit maximums are not exceeded. Employees should take all reasonable steps to eliminate their debits.
140. Up to 25 hours of flex credits will be paid out to an employee upon the cessation of their employment with the National Gallery. The payment will be calculated using the employee's base rate of pay at the time of cessation.
141. An employee who resigns from the National Gallery with a flex debit will have the debit deducted from their final pay in accordance with overpayments clauses 54 to 61.
142. For the purposes of recording flex, employees at NGA Levels 1 to 6 will keep accurate daily attendance records. Supervisors are responsible for verifying that records are accurate and complete and will take remedial action if employee attendance is not satisfactory.
143. Access to flex arrangements will not apply in circumstances where:
  - 143.1 an employee elects to work or is directed to work standard hours; or
  - 143.2 a manager reasonably considers that an employee's attendance is unsatisfactory; or
  - 143.3 a manager can establish that an employee is misusing the arrangements.
144. Further information is available in the corresponding National Gallery policy and/or guidelines.

### **Executive Level Time Off in Lieu (EL TOIL)**

145. Executive Level (EL) employees are sometimes required to work reasonable additional hours. Consistent with the NES, employees may refuse to work unreasonable additional hours.
146. EL employees seeking to access TOIL are required to keep records of their working hours using either the EL attendance sheet or their personal diary.
147. A supervisor is to grant TOIL in recognition of reasonable additional hours worked. TOIL granted to employees can be taken as whole or part days.
148. The working arrangements for an EL employee should be agreed through discussion between the supervisor and the EL employee. The discussion should include consideration of the work

requirements that will safely get the job done and reasonably allow the employee to balance their work and personal life.

149. An EL employee's working arrangements and actual hours worked should be discussed on at least a quarterly basis between the EL employee and their supervisor.
150. The pattern of work is to be flexible enough to accommodate short-term peaks and troughs in workload, and include expected reasonable additional hours. The agreed pattern of work is to be recorded.
151. Requests from EL employees to access flexible time off which are consistent with their agreed working arrangements are to be supported, subject to operational requirements.

## **Overtime**

152. Unless otherwise determined by the Director, EL employees will not be entitled to overtime.
153. Flex will generally be used to meet operational requirements for additional hours required to be performed within the bandwidth.
154. Operational requirements will, on occasions, require employees to work outside the bandwidth or in excess of 10 hours on any one day.
155. Where operational requirements necessitate, a manager may direct an employee to work overtime. If the employee has reasonable concerns that the direction to work overtime places them in an unreasonable situation due to their family responsibilities, personal circumstances and/or their health and safety, they may decline to work overtime.

### *Overtime for employees other than shiftworkers*

156. A full-time employee who is not a shiftworker is entitled to overtime if they are directed to perform work:
  - 156.1 outside the bandwidth;
  - 156.2 in excess of 10 hours in any 24-hour period; or
  - 156.3 on Saturday, Sunday or a public holiday.
157. A part-time employee who is not a shiftworker is entitled to overtime if they are directed to perform work:
  - 157.1 which is not continuous with their ordinary hours of work on a day;
  - 157.2 in circumstances where:
    - 157.2.1 the employee has completed their ordinary hours of work for the day; and
    - 157.2.2 the directed hours are continuous with their ordinary hours of work for the day; and
    - 157.2.3 the directed hours include a period outside the bandwidth; or
  - 157.3 in circumstances where the directed hours:
    - 157.3.1 are continuous with the employee's ordinary hours of work for the day;
    - 157.3.2 fall entirely within the bandwidth; and
    - 157.3.3 cause the employee to work, in any one week, more than the employee's ordinary hours of work for the week.

158. A casual employee who is not a shiftworker is entitled to overtime if they are directed to perform work:
- 158.1 outside their rostered hours of duty on that day;
  - 158.2 on a Saturday, Sunday or a public holiday; or
  - 158.3 in excess of 37.5 hours in a week.

*Overtime for shiftworkers*

159. A shiftworker (other than a casual shiftworker) is entitled to overtime if they are directed to perform work on any day where it is outside the normal rostered hours of duty on that day; and/or in excess of the weekly ordinary hours of work or over an average of the ordinary weekly hours of work over a cycle of shifts.
160. A casual shiftworker is entitled to overtime if they are directed to perform work:
- 160.1 on any day beyond their rostered hours of duty on that day; or
  - 160.2 in excess of 37.5 hours in a week, or an average of 37.5 hours per week over a cycle of shifts.

*Overtime rates*

161. Overtime for shiftworkers will be paid at the following rates:

<b>Overtime work on</b>	<b>Overtime rate (in addition to base rate of pay)</b>
Monday to Friday (first three hours)	50%
Monday to Friday (after three hours)	100%
Saturday and Sunday (all day)	100%
Public holiday (all day)	150%

162. Overtime for employees other than shiftworkers will be paid at the following rates:

<b>Overtime work on</b>	<b>Overtime rate (in addition to base rate of pay)</b>
Monday to Saturday (first three hours)	50%
Monday to Saturday (after three hours)	100%
Sunday (all day)	100%
Public holiday (all day)	150%

163. The casual loading is not paid for overtime.
164. Unless clauses 166 or 167 apply, the minimum payment for each separate overtime attendance, which is not continuous with ordinary hours of work excluding meal breaks, will be four hours at

the applicable overtime rate. Where more than one attendance is involved, this provision will not operate to increase an employee's overtime payment beyond the amount which would have been received had the employee remained on duty.

#### *Time off in lieu*

165. An employee who is entitled to an overtime payment may elect to take TOIL at the overtime rate in lieu of payment, except where an employee has a flex credit in excess of 25 hours. TOIL may be used to reduce a flex debit. In cases where TOIL has been elected but operational requirements have prevented the employee from taking time off within four weeks of having worked the overtime, or another agreed period of no longer than three months, the overtime payment which would have been made but for the election to take TOIL will be made.

#### *Emergency duty*

166. An employee called for duty to meet an emergency situation who had no notification of the duty prior to ceasing their ordinary hours of work will be entitled to a minimum payment of two hours at the rate of 100% in addition to their base rate of pay. The time for which payment will be made will include 30 minutes travelling time when less than two hours' notice of a return to duty has been provided.

#### *Rest period after overtime*

167. An employee is entitled to have a rest break, including travelling time, of at least nine hours between ceasing overtime on any day and commencing work on the next day (or shift) without any loss of pay for any ordinary hours of work they would otherwise have worked. Where such a break is not possible, the employee will be paid double the base rate of pay until they have such a break.

### **Flexible working arrangements**

168. The National Gallery, employees and their union recognise:
- 168.1 the importance of an appropriate balance between employees' personal and working lives, and the role flexible working arrangements can play in helping to achieve this balance;
  - 168.2 access to flexible work can support strategies to improve diversity in employment and leadership in the National Gallery;
  - 168.3 access to flexible work supports National Gallery capability, and can assist in attracting and retaining the employees needed to deliver for the Australian community, including employees located at a wider range of locations;
  - 168.4 that flexibility applies to all roles in the National Gallery, and different types of flexible working arrangements may be suitable for different types of roles or circumstances; and
  - 168.5 requests for flexible working arrangements are to be considered on a case-by-case basis, with a bias towards approving requests.
169. The National Gallery is committed to engaging with employees and their union to build a culture that supports flexible working arrangements across the National Gallery at all levels. This may include developing and implementing strategies through the GCC.
170. Flexible working arrangements include, but are not limited to, changes in hours of work, changes in patterns of work and changes in location of work.

*Requesting formal flexible working arrangements*

171. The following provisions do not diminish an employee's entitlement under the NES.
172. An employee may make a request for a formal flexible working arrangement.
173. The request must:
- 173.1 be in writing;
  - 173.2 set out details of the change sought (including the type of arrangement sought and the proposed period the arrangement will operate for); and
  - 173.3 set out the reasons for the change, noting the reasons for the change may relate to the circumstances set out at section 65(1A) of the FW Act.
174. The Director must provide a written response to a request within 21 days of receiving the request.
175. The response must:
- 175.1 state that the Director approves the request and provide the relevant detail in clause 176;  
or
  - 175.2 if following discussion between the National Gallery and the employee, the National Gallery and the employee agree to a change to the employee's working arrangements that differs from that set out in the request – set out the agreed change; or
  - 175.3 state that the Director refuses the request and include the following matters:
    - 175.3.1 details of the reasons for the refusal; and
    - 175.3.2 the National Gallery's particular business grounds for refusing the request, explaining how those grounds apply to the request; and
    - 175.3.3 either:
      - a) the changes (other than the requested change) in the employee's working arrangements that would accommodate, to any extent, the employee's circumstances outlined in the request and that the National Gallery would be willing to make; or
      - b) that there are no such changes; and
    - 175.3.4 that a decision to refuse the request, or failure to provide a written response within 21 days is subject to the dispute resolution procedures of this Agreement, and if the employee is an eligible employee under the FW Act, the dispute resolution procedures outlined in sections 65B and 65C of the FW Act.
176. Where the Director approves the request this will form an arrangement between the National Gallery and the employee. Each arrangement must be in writing and set out:
- 176.1 any security and work health and safety requirements;
  - 176.2 a review date (subject to clause 180); and
  - 176.3 the cost of establishment (if any).
177. The Director may refuse to approve the request only if:
- 177.1 the National Gallery has discussed the request with the employee; and

- 177.2 the National Gallery has genuinely tried to reach an agreement with the employee about making changes to the employee's working arrangements to accommodate the employee's circumstances (subject to any reasonable business grounds for refusal); and
  - 177.3 the National Gallery and the employee have not reached such an agreement; and
  - 177.4 the National Gallery has had regard to the consequences of the refusal for the employee; and
  - 177.5 the refusal is on reasonable business grounds.
178. Reasonable business grounds include, but are not limited to:
- 178.1 the new working arrangements requested would be too costly for the National Gallery;
  - 178.2 there is no capacity to change the working arrangements of other employees to accommodate the new working arrangements requested;
  - 178.3 it would be impractical to change the working arrangements of other employees, or to recruit new employees, to accommodate the new working arrangements requested;
  - 178.4 the new working arrangements requested would be likely to result in a significant loss in efficiency or productivity;
  - 178.5 the new working arrangements requested would be likely to have a significant negative impact on visitor experience; and
  - 178.6 it would not be possible to accommodate the working arrangements without significant changes to security requirements, or where work health and safety risks cannot be mitigated.
179. For First Nations employees, the National Gallery must consider connection to country and cultural obligations in responding to requests for altering the location of work.
180. Approved flexible working arrangements will be reviewed by the National Gallery and the employee after 12 months, or a shorter period, if agreed by the employee. This is to ensure the effectiveness of the arrangement.

*Varying, pausing or terminating flexible working arrangements*

- 181. An employee may request to vary an approved flexible working arrangement in accordance with clause 173. An employee may request to pause or terminate an approved flexible working arrangement.
- 182. The Director may vary, pause or terminate an approved flexible working arrangement on reasonable business grounds, subject to clause 184.
- 183. The National Gallery must provide reasonable notice if varying, pausing or terminating a flexible working arrangement without the agreement of the employee, having regard to the circumstances of the employee. Exceptions to this requirement are urgent and critical operational circumstances or an employee's demonstrated and repeated failure to comply with the agreed arrangements.
- 184. Prior to the Director varying, pausing or terminating the arrangement under clause 182, the National Gallery must have:
  - 184.1 discussed with the employee their intention to vary, pause or terminate the arrangement with the employee;

- 184.2 genuinely tried to reach an agreement with the employee about making changes to the employee's working arrangements to accommodate the employee's circumstances (subject to any reasonable business grounds for alteration);
- 184.3 had regard to the consequences of the variation, pause or termination for the employee;
- 184.4 ensured the variation, pause or termination is on reasonable business grounds; and
- 184.5 informed the employee in writing of the variation, pause or termination to the approved flexible working arrangement, including details set out in clause 175.3.

#### *Working from home*

- 185. The National Gallery will not impose caps on groups of employees on the time that may be approved to work from home or remotely, with each request to be considered on its merits.
- 186. An employee working from home is covered by the same employment conditions as an employee working at an office site under this Agreement.
- 187. The National Gallery will provide employees with guidance on working from home safely.
- 188. Employees will not be required by the National Gallery to work from home unless it is lawful and reasonable to do so. This may include where circumstances prevent attendance at an office during a pandemic or natural disaster. In these situations, the National Gallery will consider the circumstances of the employees and options to achieve work outcomes safely.

#### *Ad-hoc arrangements*

- 189. Employees may request ad-hoc flexible working arrangements. Ad-hoc arrangements are generally one-off or short-term arrangements for circumstances that are not ongoing.
- 190. Employees should, where practicable, make the request in writing and provide as much notice as possible.
- 191. Requests for ad-hoc arrangements are not subject to the request and approval processes detailed in clauses 171 to 180.
- 192. The National Gallery should consider ad-hoc requests on a case-by-case basis, with a bias to approving ad-hoc requests, having regard to the employee's circumstances and reasonable business grounds.
- 193. Where a regular pattern of requests for ad-hoc arrangements from an employee emerges, the National Gallery should consider whether it is appropriate to seek to formalise the arrangement with the employee.

#### *Altering span of hours*

- 194. An employee may request to work an alternative regular span of hours (bandwidth). If approved by the Director, hours worked on this basis will be treated as regular working hours and will not attract overtime payments or shift penalties. The National Gallery will not request or require that any employee alter their regular span of hours (bandwidth) under these provisions.

#### **Part-time work**

- 195. The National Gallery recognises that part-time employment may enhance operational flexibility and assist employees to balance work, family and personal needs.



### *Requesting part-time work*

196. The Director may agree to requests for part-time work, subject to the following part-time work provisions.
197. All employees may request to work part-time in accordance with the flexible working arrangements provisions at clauses 171 to 180. The request will be considered in accordance with those provisions.
198. An employee returning to work after giving birth, or adopting or fostering a child has the right to work part-time until the child reaches the age of three or, in the case of adoption/fostering, until the third anniversary of the placement of the child.
199. A full-time employee may submit to the Director a written request for approval to work on a part-time basis, either for a finite period or on an ongoing basis.

### *Part-time work arrangements*

200. Part-time work arrangements will be set out in a part-time work agreement specifying the employee's regular part-time hours to be worked during the settlement period, the duration of the agreement and any specific arrangements that are necessary to facilitate part-time work. Each attendance must be no less than three hours, unless this requirement is waived by the Director.
201. Part-time hours included in a part-time work agreement must be within the bandwidth.
202. A supervisor may require a part-time employee to perform additional hours (i.e. more hours than agreed as their regular part-time hours over the settlement period in their part-time work agreement). Employees may refuse to work additional hours if they are unreasonable. When additional hours are performed, overtime, EL TOIL or flex provisions may be applied in accordance with this Agreement.
203. Employees engaged on a full-time basis will not be compelled to convert to part-time employment.
204. Employees engaged on a part-time basis will not be compelled to convert to full-time employment.

### *Remuneration, allowances and entitlements*

205. Remuneration, with the exception of allowances and reimbursements of an expense nature, are calculated on a pro-rata basis for part-time employees. Leave for part-time employees is provided in accordance with relevant legislation and this Agreement. Payment of salary when a part-time employee takes leave will be reflective of the regular part-time hours set out in their part-time work agreement, except during long service leave where their salary will be calculated in accordance with the LSL Act.
206. All variations of hours of work will be taken into account in calculating a part-time employee's leave entitlements.

### *Job-sharing arrangements*

207. The National Gallery encourages and will facilitate the use of job-sharing arrangements, subject to operational requirements. Full-time employees may request, in writing, approval to work in a job-share arrangement. Employees working under job-sharing arrangements share one full-time position, and will be considered to be part-time, with each working part-time hours on a regular basis.
208. Further information on part-time working arrangements can be found in the corresponding National Gallery policy and/or guidelines.

## Public holidays

209. Employees are entitled to the following holidays each year as observed at their usual location of work in accordance with the FW Act:
- 209.1 1 January (New Year's Day);
  - 209.2 26 January (Australia Day);
  - 209.3 Good Friday and the following Monday;
  - 209.4 25 April (ANZAC Day);
  - 209.5 the King's birthday holiday (on the day on which it is celebrated in a State or Territory or a region of a State or Territory);
  - 209.6 25 December (Christmas Day);
  - 209.7 26 December (Boxing Day); and
  - 209.8 any other day, or part day, declared or prescribed by or under a law of a State or Territory to be observed generally within the State or Territory, or a region of the State or Territory, as a public holiday, other than a day or part day, or a kind of day or part day, that is excluded by the *Fair Work Regulations 2009* from counting as a public holiday.
210. If a public holiday falls on a Saturday or Sunday, and if under a State or Territory law, a day or part day is substituted for one of the public holidays listed above, then the substituted day or part day is the public holiday.
211. The Director and an employee may agree on the substitution of a day or part day that would otherwise be a public holiday, having regard to operational requirements.
212. The Director and an employee may agree to substitute a cultural or religious day of significance to the employee for any day that is a prescribed holiday. If the employee cannot work on the prescribed holiday, the employee will be required to work make-up time at times to be agreed. This substitution does not impact or reduce an employee's entitlement to First Nations ceremonial leave, NAIDOC leave or cultural leave.
213. Where an employee substitutes a public holiday for another day, they will not be paid penalty rates for working their normal hours on the public holiday.
214. Where a public holiday falls during a period when an employee is absent on leave (other than annual leave, paid personal/carer's leave or defence service sick leave) there is no entitlement to receive payment as a public holiday. Payment for that day will be in accordance with the entitlement for that form of leave (e.g., if on long service leave on half pay, payment is at half pay.)
215. If under a law of a State or Territory every Sunday is declared or prescribed by or under that law to be a public holiday, there is no entitlement to receive payment as a public holiday if the employee would have worked, or does perform work, on that day. In these circumstances, payment will only be made at the public holiday rate if the employee performs work on that day, and the Sunday would otherwise be a public holiday under clauses 209.1 to 209.8.
216. An employee, who is absent on a day or part day that is a public holiday in their usual location of work, is entitled to be paid for the part or full day absence as if that day or part day was not a public holiday, except where that person would not normally have worked on that day.
217. Where a full-time employee, including but not limited to employees on compressed hours, has a regular planned day off which would fall on a public holiday, the Director may allow the employee to change their planned day off so that it does not fall on a public holiday. If it is not possible to

change their planned day off, the employee will be credited an equivalent amount of time to their ordinary hours of work for the day in flex credits or EL TOIL in recognition of their planned day off.

### **Christmas closedown**

218. Non-public contact areas of the National Gallery will close down during the period between Christmas and New Year and will re-open on the first working day after 1 January each year (closedown period). An employee who works in these areas is not required to work during this period and will not be required to use annual leave, flex or TOIL for the working days during this period.
219. As the National Gallery is closed on Christmas Day, only Security Control Room employees may be rostered or required to work on that day.
220. Should operational requirements necessitate an employee working during the closedown period, the employee will be entitled to a day off in lieu for each day worked.

## Section 6: Leave

### General (leave)

221. For all absences of less than one working day, with their supervisor's agreement, an employee may have the absence recorded as flex. For an employee who does not have access to flex arrangements, an arrangement may be made with their supervisor for the time to be made up as an alternative to accessing leave entitlements. A record of the absence will be maintained by the supervisor.
222. Where an employee is absent from duty in excess of one working day, without approval, all pay and other benefits provided under this Agreement may cease to be available for the period of the absence until the employee resumes duty or is granted leave.
223. Where an employee's request for leave is refused the supervisor will, on request, advise the employee in writing of the reason for the decision as soon as reasonably practicable.
224. All paid leave counts as service for all purposes.

### Annual leave

225. An employee (other than a casual employee or a shiftworker) is entitled to four weeks of paid annual leave for each year of service with the National Gallery.
226. A shiftworker (other than a casual employee), is entitled to five weeks of paid annual leave for each year of service with the National Gallery.
227. A part-time employee's entitlement to annual leave is pro-rated.
228. Annual leave accrues progressively, is cumulative and is credited daily.
229. Where a public holiday occurs in a period of annual leave, the public holiday will not be deducted from the employee's annual leave credits.
230. Deductions of annual leave will be made on an hour-for-hour basis.
231. Where leave without pay not to count as service has been granted, the accrual of annual leave credits will be adjusted as follows:
  - 231.1 where aggregated absences total 30 calendar days or less in the preceding year, the annual leave accrual is not affected;
  - 231.2 where aggregated absences total more than 30 calendar days, the entire period of leave without pay is deducted from the number of calendar days to count as service; and
  - 231.3 when leave without pay covers an entire calendar year, no annual leave credit accrues for that year.
232. Annual leave is also able to be used where an employee has a long-term illness and has exhausted their personal/carer's leave entitlements, provided they have applied for annual leave.
233. An employee may take annual leave at half pay if they do not have excess annual leave credits as defined in clause 241 or as otherwise approved by the Director. When an employee takes annual leave at half pay, only half the period of leave will be deducted from annual leave credits.
234. Unused accrued annual leave will be paid to employees when their employment with the National Gallery ceases. Payment will be calculated using the employee's final salary, including allowances that would have been included in the employee's pay during a period of annual leave.

235. Further information is available in the corresponding National Gallery policy and/or guidelines.

### **Annual leave cash out**

236. An employee may make a request to cash out annual leave provided that the employee's remaining accrued annual leave entitlement would not be less than 20 days.
237. Each request made by an employee for cashing out of a particular amount of annual leave must be in writing.
238. If an employee's request to cash out annual leave is approved, the employee will be paid the full amount that would have been paid to them had they taken the leave that is cashed out.
239. The National Gallery will not approve requests to cash out annual leave in accordance with clauses 236 to 238 unless the employee has taken 15 days annual leave in the 12 months immediately preceding the request to cash out leave.

### **Excess annual leave**

240. An employee's request to take annual leave will not be unreasonably refused.
241. Any annual leave credits in excess of eight weeks are called 'excess annual leave credits'.
242. If an employee has excess annual leave credits, the National Gallery may direct that the employee take up to 25% of this entitlement, subject to clause 243 and the employee and their supervisor first having attempted to reach agreement on the reduction of the employee's annual leave entitlement. The minimum notice required for such a direction to the employee is four weeks.
243. An employee will not be directed to take annual leave if their supervisor has not appropriately accommodated the employee's request(s) to take annual leave in the previous 12-month period.

### **Purchased leave**

244. An ongoing or non-ongoing employee may apply to purchase up to four weeks of additional leave per year with salary deductions based on the employee's gross annual salary averaged over the whole year. Purchased leave must be used within 12 months of purchase or the balance of the leave will be repaid to the employee.
245. Granting of purchased leave is subject to operational requirements.
246. Where an employee has an amount of purchased leave that has been paid for but not taken immediately prior to the cessation of the employee's employment, the National Gallery will refund this amount to the employee as part of the employee's final monies.

### **Recall to duty**

247. If an employee is recalled to duty during a period of annual leave the employee will be re-credited with the period equivalent to that which was worked during the annual leave and will have all reasonable costs (as determined by the Director and not otherwise recoverable from other sources) associated with being recalled to duty, met by the National Gallery.

### **Personal/carer's leave**

248. Ongoing employees and non-ongoing employees engaged on a contract of 12 months or more will:

- 248.1 be credited with 18 days personal/carer's leave on commencement at the National Gallery; and
  - 248.2 accrue 18 days personal/carer's leave for each year of service from the first anniversary of their commencement with the National Gallery.
249. Non-ongoing employees on a contract of less than 12 months will:
- 249.1 be credited with 18 days personal/carer's leave pro-rated based on the employee's initial contract period on commencement at the National Gallery, capped at 18 days.
    - 249.1.2 At the end of an initial contract period or where the employee has an existing entitlement to personal/carers leave, the employee will progressively accrue an amount of 1.5 days of paid personal/carer's leave for each completed month of continuous service.
    - 249.1.3 After 12 months of continuous service, the same provisions as for ongoing employees in clause 248 will apply.
250. Part-time employees will receive a pro-rata entitlement of personal/carer's leave.
251. A casual employee may be absent without pay when not fit for work due to personal illness or injury. A casual employee may access two days unpaid carer's leave per occasion, consistent with the NES.
252. Personal/carer's leave will not accrue where an employee has been absent on leave without pay for periods that exceed 30 calendar days and do not count as service, or for any unauthorised absence, which will defer the accrual date.
253. When taking personal/carer's leave, employees will provide evidence sufficient to satisfy a reasonable person.
254. The Director may approve the taking of a period of paid personal/carer's leave in advance of it accruing where an employee has exhausted all available paid personal/carer's leave entitlements.
255. Employees must advise their supervisor as soon as is reasonably practicable of their absence or their intention to be absent. This will be in advance of the absence whenever possible.
256. An employee may, subject to approval, take paid personal/carer's leave if the leave is taken:
- 256.1. due to personal illness or injury;
  - 256.2. to attend appointments with a registered health practitioner;
  - 256.3. to manage a chronic condition; or
  - 256.4. to provide care or support for a family or household member or a person they have caring responsibilities for, because:
    - 256.4.1 of a personal illness or injury affecting the other person; or
    - 256.4.2 of an unexpected emergency affecting the other person.
257. A person that an employee has caring responsibilities for may include a person who needs care because they:
- 257.1. have a medical condition, including when they are in hospital;
  - 257.2. have a mental illness;
  - 257.3. have a disability;

- 257.4. are frail or aged; or
  - 257.5. are a child, not limited to a child of the employee.
258. Documentary evidence should be provided for absences:
- 258.1. of three consecutive days or more;
  - 258.2. of less than three consecutive days if there is some doubt that the absence is consistent with the purposes specified above and the supervisor provides advance notice of the requirement; and
  - 258.3. where an employee has taken 10 days of personal/carer's leave in a year (measured from the employee's anniversary date of commencement) without providing documentary evidence, unless the supervisor waives this requirement.
259. Documentary evidence includes:
- 259.1. a certificate from a registered health practitioner;
  - 259.2. a statutory declaration; or
  - 259.3. another form of evidence approved by the Director.
260. A certificate from a registered health practitioner may be used as acceptable evidence of a chronic condition for up to 12 months for both personal and carer's leave.
261. An employee who is retired on the grounds of invalidity and is subsequently reappointed as a result of action taken under section 75 of the *Superannuation Act 1976*, is entitled to be credited with personal/carer's leave equal to the balance of personal/carer's leave in credit at the time of their retirement.
262. Personal/carer's leave will not be debited where an employee is medically unfit for duty on a public holiday, which they would otherwise have observed.
263. An employee is unable to access paid personal/carer's leave while on paid parental leave.
264. Unused personal/carer's leave will not be paid out on separation.

### **Portability of leave**

265. Where an employee is engaged at the National Gallery immediately following a period of employment by a Commonwealth employer including the APS, or the ACT Government Service, the employee's unused accrued annual leave (up to a maximum of 20 days) and personal/carer's leave will be recognised at the employee's request and provided there is not a break in continuity of service. The transfer of leave to the National Gallery will only be accepted if written agreement to transfer the leave is provided by the previous employer and the employee has not received payment in lieu of those entitlements on cessation of the previous employment.
266. Where an employee is engaged as an employee at the National Gallery, and immediately prior to the engagement the person was employed by a State or Territory Government (other than ACT Government service, provided for above), the Director may recognise any unused accrued personal/carer's leave, provided there is not a break in continuity of service.
267. For the purposes of provisions 265 and 266, an employee with a break in service of less than two months is considered to have continuity of service.
268. The entitlement to these accrued credits of leave, and any future entitlements to annual leave and personal/carer's leave, will be those prevailing in the National Gallery.

269. Where an employee has previously been employed in the APS, Government Service as defined by section 10 of the LSL Act, or in a service prescribed in section 11 (2) of the LSL Act, that previous service will be recognised for long service leave purposes. Recognition is subject to continuity of service requirements defined by section 12 of the LSL Act (any break in service between eligible employment can be no greater than 12 months).

### **Re-crediting of leave**

270. When an employee is on:

- 270.1. annual leave;
- 270.2. purchased leave;
- 270.3. defence reservist leave;
- 270.4. First Nations ceremonial leave;
- 270.5. NAIDOC leave;
- 270.6. cultural leave; or
- 270.7. long service leave;

and becomes eligible for, under legislation or this Agreement:

- 270.8. personal/carer's leave;
- 270.9. compassionate or bereavement leave;
- 270.10. jury duty;
- 270.11. emergency services leave;
- 270.12. leave to attend to family and domestic violence circumstances; or
- 270.13. parental leave, premature birth leave, stillbirth leave or pregnancy loss leave;

the affected period of leave will be re-credited.

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

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

### **Long service leave**

273. An employee is eligible for long service leave in accordance with the LSL Act.
274. The minimum period for which long service leave will be granted is seven calendar days (whether taken at full or half pay). Long service leave cannot be broken with other periods of leave, except as otherwise provided by legislation or provided for in the re-crediting of leave clauses 270 to 272 of this Agreement.

### **Miscellaneous leave**

275. The Director may grant miscellaneous leave to an employee (including casuals), either with or without pay, in circumstances not provided for elsewhere in this Agreement.



276. Paid miscellaneous leave for casual employees will only be granted for the purposes of paid family and domestic violence leave, as mandated by the FW Act, and for any other purposes established by Government directives.
277. Approved miscellaneous leave with pay counts as service for all purposes. Approved miscellaneous leave without pay does not count as service for any purpose unless the Director approves the leave to count as service or as otherwise required by legislation.
278. Further information can be found in the corresponding National Gallery policy and/or guidelines.

### **Cultural, ceremonial and NAIDOC leave**

#### *NAIDOC leave*

279. First Nations employees may access up to one day of paid leave per calendar year to participate in NAIDOC week activities.
280. NAIDOC leave can be taken in part days.

#### *First Nations ceremonial leave*

281. First Nations employees may access up to six days of paid leave over two calendar years to participate in significant activities associated with their culture or to fulfil ceremonial obligations.
282. The Director may approve additional leave for cultural or ceremonial purposes as miscellaneous leave, with or without pay.
283. First Nations ceremonial leave can be taken as part days.
284. First Nations ceremonial leave is in addition to compassionate and bereavement leave.

#### *Cultural leave*

285. The Director may grant up to three days of paid leave per calendar year for the purpose of attending significant religious or cultural obligations associated with the employees' particular faith or culture.
286. The Director may approve additional leave for cultural purposes as miscellaneous leave, with or without pay.
287. Cultural leave can be taken as part days.
288. For the avoidance of doubt, this leave does not cover cultural purposes or obligations which are eligible for paid leave under clauses 281 to 284.

### **Parental leave**

289. A primary caregiver, secondary caregiver and ML Act is defined in Attachment E.
290. An employee who is a **primary caregiver** or **secondary caregiver** is entitled to parental leave up until 24 months from the date of the child's birth or placement (**parental leave period**). For the avoidance of doubt, this is inclusive of all legislated leave entitlements. The parental leave period does not extend non-ongoing employment where the employment period remaining is less than 24 months. An employee is only eligible for parental leave with pay as either a primary caregiver or a secondary caregiver for the particular parental leave period, and cannot switch roles for the purpose of accessing additional paid leave.

- 291. For the pregnant employee, the parental leave period starts on commencement of maternity leave as per ML Act requirements, and ceases 24 months from the date of birth. Medical certification requirements for the pregnant employee will be as required by the ML Act.
- 292. Conditions in this Agreement will continue to apply in circumstances where successor legislation to the ML Act does not provide parental leave conditions included in this Agreement.
- 293. An employee on parental leave will not be unattached from their position, and on ending parental leave, an employee is entitled to return to:
  - 293.1. the employee's pre-parental leave duties; or
  - 293.2. if those duties no longer exist, an available position for which the employee is qualified and suited at the relevant classification and pay point.

*Payment during parental leave*

- 294. An employee is entitled to parental leave with pay as per clauses 296 and 297 below within the parental leave period. Any further parental leave during the parental leave period is without pay. Unused paid parental leave remaining at the end of the employee's parental leave period will lapse. An employee may choose to use their accrued paid leave entitlements in accordance with usage and eligibility requirements in this Agreement during the parental leave period that would otherwise be without pay.
- 295. An employee from another Commonwealth employer newly engaged by the National Gallery is eligible for the paid parental leave in clauses 296 and 297 where such paid leave has not already been provided by another Commonwealth employer in the 24 months since the child's date of birth or placement. If the paid leave used by the employee with the previous Commonwealth employer is less than the limits specified in clauses 296 and 297, the balance is available to the employee.
- 296. An employee who is a **primary caregiver** is entitled to parental leave with pay during the parental leave period to a maximum of 18 weeks as provided in **Table 1** below.

**Table 1: Primary caregivers - circumstances for paid parental leave**

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

- 297. An employee who is a secondary caregiver is entitled to parental leave with pay during the parental leave period as provided in **Table 2** below.

**Table 2: Secondary caregivers - circumstances for paid parental leave**

<b>Period which coincides with the parental leave period for the secondary caregiver</b>	<b>Parental leave with pay under this Agreement</b>
Date of commencement of this Agreement to 28 February 2025	8 weeks, or top up to 8 weeks where a lesser period of parental leave has already been provided
1 March 2025 to 28 February 2026	11 weeks, or top up to 11 weeks where a lesser period of parental leave has already been provided
1 March 2026 to 25 October 2026	14 weeks, or top up to 14 weeks where a lesser period of parental leave has already been provided
On and from 26 October 2026	18 weeks, or top up to 18 weeks where a lesser period of parental leave has already been provided

298. **Flexibility:** parental leave with pay, whether provided as maternity leave under the ML Act or under this Agreement, can be accessed flexibly during the parental leave period and does not have to be taken in a single block. For the avoidance of doubt, parental leave can be used to replicate a part-time work arrangement, and can be taken concurrently with another parent in relation to the same child.
299. **Rate of payment** during paid parental leave is the same as for an absence on personal/carer's leave and based on the employee's weekly hours at the time of the absence.
300. **Half-pay option:** the payment of any paid parental leave may be spread over a maximum period of 36 weeks at the rate of, no less than, half the normal rate of salary. All paid parental leave counts as service for all purposes, where permitted by legislation.

*Adoption and long-term foster care*

301. An employee who is a primary caregiver or secondary caregiver is entitled to parental leave in accordance with this Agreement for adoption or long-term foster care, provided that the child:
- 301.1. is under 16 as at the day (or expected day) of placement;
  - 301.2. has not lived continuously with the employee for a period of six months or more as at the day (or expected day) of placement; and
  - 301.3. is not (otherwise than because of the adoption) a child of the employee or the employee's partner.
302. Documentary evidence of approval for adoption or enduring parental responsibilities under formal fostering arrangements must be submitted when applying for parental leave for adoption or long-term foster carer purposes.

### *Stillbirth*

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

### *Pregnancy loss leave*

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

### *Premature birth leave*

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

### *Transitional provisions*

308. Employees eligible for paid leave under the ML Act are required under legislation to use their paid maternity leave first. In this circumstance, the employee may postpone their paid premature birth leave otherwise payable under clause 307 until after the legislated paid maternity leave is used.

## **Compassionate leave**

309. Employees will be eligible for three days paid compassionate leave on each occasion when:
- 309.1. a member of their family (including a member of their household) or someone they have a close personal relationship with contracts, develops or sustains a life-threatening illness or injury; or
  - 309.2. the employee or their partner has a miscarriage.
310. An employee may be asked to provide evidence to support their absences on compassionate leave.
311. Compassionate leave for an occasion may be taken as three consecutive days or in separate periods totalling three days. This can include part days.
312. For casual employees, compassionate leave is unpaid.

## **Bereavement leave**

313. Employees will be eligible for three days paid bereavement leave on each occasion when:

- 313.1. a member of their family (including a member of their household) or someone they had a close personal relationship with dies; or
- 313.2. a child is stillborn, where the child was a member of their family (including a member of their household).
- 314. An employee may be asked to provide evidence to support their absences on bereavement leave.
- 315. Bereavement leave for an occasion may be taken as three consecutive days or in separate periods totalling three days. This can include part days.
- 316. For casual employees, bereavement leave is unpaid.

### **Emergency response leave**

- 317. In line with section 108 of the FW Act, an employee who engages in an eligible community service activity is entitled to emergency response leave to volunteer for emergency management duties for:
  - 317.1. the time engaged in the activity;
  - 317.2. reasonable travelling time; and
  - 317.3. reasonable recovery time.
- 318. Full-time and part-time employees will be able to access 20 working days of paid emergency response leave at their full rate of pay per year if required. The Director may provide additional emergency response leave with pay.
  - 318.1. For the purposes of this clause, full rate of pay is to be as if the employee was at work.
- 319. Paid leave may be refused where the employee's role is essential to the National Gallery's response to the emergency.
- 320. An employee must provide evidence that the organisation requests their services. Employees can provide evidence before or as soon as practical after their emergency service activity.
- 321. The Director may approve reasonable paid or unpaid leave for ceremonial duties and training.
- 322. Emergency response leave, with or without pay, will count as service.

### **Jury duty**

- 323. Employees who are required by a court to attend either for jury selection, or to act as a juror, will be released from duty for the required period, without the need to apply for leave.
- 324. Full and part-time employees will be released from duty on their full rate of pay. Payment for casuals will be as per the relevant state legislation.
  - 324.1. For the purposes of this clause, full rate of pay is to be as if the employee was at work.
- 325. The employee is required to inform their supervisor before they are released from duty and provide evidence of the need to attend.
- 326. If the employee receives a payment from the court for attendance (which are not expense related such as allowances and reimbursements), they must repay that amount to the National Gallery for the period of absence. This will be administered in accordance with the overpayments clauses 54 to 61.

## **Defence reservist leave**

327. The Director will give an employee leave with or without pay to undertake:
- 327.1. Australian Defence Force (ADF) Reserve and continuous full-time service (CFTS); and
  - 327.2. Australian Defence Force Cadet obligations.
328. An employee who is a Defence Reservist can take leave with pay for:
- 328.1. up to four weeks (20 days) in each financial year (pro-rata for part-time employees); and
  - 328.2. an extra two weeks (10 days) in the first year of ADF Reserve service (pro-rata for part-time employees).
329. Leave can be built up and taken over two consecutive years. This includes the extra two weeks in the first year of service.
330. An employee who is an Australian Defence Force Cadet officer or instructor can get paid leave up to three weeks in each financial year to perform their duties. Australian Defence Force Cadets means:
- 330.1. Australian Navy Cadets;
  - 330.2. Australian Army Cadets; and
  - 330.3. Australian Air Force Cadets.
331. In addition to the entitlement at clause 328, paid leave may be granted to an employee to attend an interview or medical examination in connection with the enlistment of the employee in a Reserve Force of the Defence Force.
332. Paid defence reservist leave counts for service.
333. Unpaid defence reservist leave for six months or less counts as service for all purposes. This includes periods of CFTS.
334. Unpaid leave taken over six months counts as service for all purposes except for annual leave.
335. An employee will not need to pay their tax free ADF Reserve salary to the National Gallery for any reason.

## **Defence service sick leave**

336. An employee is eligible for defence service sick leave credits when the Department of Veterans Affairs (DVA) has certified that an employee's medical condition is as a result of either:
- 336.1. war like service; or
  - 336.2. non-war like service.
337. An eligible employee can get two types of credits:
- 337.1. an initial credit of nine weeks (45 days) defence service sick leave (pro-rata for part-time employees) will apply as at the following dates, whichever is later:
    - 337.1.1. they start employment with the National Gallery; or
    - 337.1.2. DVA certifies the condition; and
  - 337.2. an annual credit of three weeks (15 days) defence service sick leave (pro-rata for part-time employees).

- 338. An employee can use their defence service sick leave when a recognised medical practitioner provides a certificate that says they were away due to their DVA certified medical condition.
- 339. Unused annual credits can be built up to nine weeks.
- 340. An employee cannot use annual credits until the initial credit is exhausted.
- 341. Defence service sick leave is paid and counts as service for all purposes.

### **Moving house leave**

- 342. One paid day each calendar year will be provided to employees who are required to move house.

### **Leave to attend proceedings (witness leave)**

- 343. An employee giving evidence before a Court, Tribunal or Royal Commission on behalf of the Commonwealth or a Commonwealth party in the course of their duties, will be considered on duty.
- 344. An employee who is not covered under clause 343 and is required to give evidence to, appear before or attend to instruct a representative at a Court, Tribunal or Royal Commission in relation to their duties will be released from duty without loss of pay. This includes in proceedings relating to a dispute between the employee and the National Gallery.
- 345. An employee may otherwise be granted paid or unpaid miscellaneous leave by the Director if required to give evidence to a Court, Tribunal or Royal Commission for any other reason. Where approval for unpaid leave is given, the employee may elect to use accrued annual leave, flex leave or time off in lieu.
- 346. The Director may refuse to release an employee from duty having regard to business requirements and whether the employee's attendance is necessary for the Court, Tribunal or Royal Commission hearing.

## **Section 7: Employee support and workplace culture**

### **Anti-discrimination and workplace diversity**

347. The National Gallery is committed to upholding the values of diversity in the workforce. The National Gallery will ensure compliance with sections 346 and 351 of the FW Act, with the acknowledgement that nothing in these provisions allows for any treatment that would otherwise be prohibited by anti-discrimination provisions in applicable Commonwealth, State or Territory legislation.
348. The National Gallery also maintains up-to-date plans which are accessible to all employees.

### **Commitment to a safe and healthy work environment**

349. The National Gallery is committed to creating and maintaining a safe and healthy work environment. Responsibilities are outlined in the *Work Health and Safety Act 2011*.

### **Respect at work**

#### *Principles*

350. The National Gallery values a safe, respectful and inclusive workplace free from physical and psychological harm, harassment, discrimination and bullying. The National Gallery recognises that preventing sexual harassment, sex discrimination, sex-based harassment and victimisation in the workplace is a priority.
351. The National Gallery recognises that approaches to prevent sexual harassment, sex discrimination, sex-based harassment and victimisation in the workplace should be holistic and consistent with the Australian Human Rights Commission's guidance, including the *Good Practice Indicators Framework for Preventing and Responding to Workplace Sexual Harassment*.

#### *Consultation*

352. The National Gallery will consult with employees and their unions in developing, reviewing and evaluating approaches to prevent sexual harassment, sex discrimination, sex-based harassment and victimisation in the workplace.

### **Family and domestic violence support**

353. The National Gallery will provide support for employees affected by family and domestic violence, depending on the employee's circumstances.
354. The National Gallery recognises that a holistic approach should be taken to support the employee, appropriate for the employee's individual circumstances.
355. Family and domestic violence support provisions, including paid leave, are available to all employees covered by this Agreement.
356. An employee experiencing family and domestic violence is able to access paid miscellaneous leave. Reasons an employee experiencing family and domestic violence may access this leave include, but are not limited to:
- 356.1. illness or injury affecting the employee resulting from family and domestic violence;



- 356.2. providing care or support to a family member (including a household member) who is also experiencing family and domestic violence, and is ill or injured as a result of family and domestic violence;
  - 356.3. providing care or support to a family member (including a household member) who is also experiencing family and domestic violence, and is affected by an unexpected emergency as a result of family and domestic violence;
  - 356.4. making arrangements for the employee's safety, or the safety of a close relative;
  - 356.5. accessing alternative accommodation;
  - 356.6. accessing police services;
  - 356.7. attending court hearings;
  - 356.8. attending counselling; and
  - 356.9. attending appointments with medical, financial or legal professionals.
357. This entitlement exists in addition to an employee's existing leave entitlements and may be taken as consecutive days, single days or part days and will count as service for all purposes.
  358. Given the emergency context in which leave may need to be accessed, employees can proceed to take the leave and seek approval at a later date, as soon as practicable.
  359. These provisions do not reduce an employee's entitlement to family and domestic violence leave under the NES.
  360. Paid miscellaneous leave available under this clause is paid for ongoing and non-ongoing employees at their full rate of pay as if they were at work.
  361. Paid leave for casual employees under this clause is paid at their full rate of pay for the hours they were rostered to work in the period they took leave.
  362. Evidence may be requested to support the National Gallery in approving leave. In most cases, this will not be required. Where it is required, this will be discussed with the employee and a statutory declaration is the only form of evidence the National Gallery will require, unless the employee chooses to provide another form of evidence.
  363. An employee may also choose to provide other forms of evidence, including a medical certificate, or document issued by the Police Service, a Court, a Doctor, district Nurse, a Family Violence Support Service or Lawyer.
  364. The National Gallery will take all reasonable measures to treat information relating to family and domestic violence confidentially. The National Gallery will adopt a 'needs to know' approach regarding communication of an employee's experience of family and domestic violence, subject to steps the National Gallery may need to take to ensure the safety of the employee, other employees or persons, or mandatory reporting requirements.
  365. Where the National Gallery needs to disclose confidential information for purposes identified in clause 364, where it is possible the National Gallery will seek the employee's consent and take practical steps to minimise any associated safety risks for the employee and/or privacy breaches.
  366. The National Gallery will not store or include information on the employee's payslip in relation to the employee's experience of family and domestic violence; any leave accessed for the purposes of family and domestic violence; or support(s) provided by the employer, unless otherwise required by legislation.

367. Other available support may include, but is not limited to, flexible working arrangements, additional access to the National Gallery's Employee Assistance Program, changes to their span of hours or pattern of work and/or shift patterns and/or location of work where reasonably practicable.
368. The National Gallery will acknowledge and take into account an employee's experience of family and domestic violence if an employee's attendance or performance at work is affected.
369. Further information about leave and other support available to employees affected by family and domestic violence may be found in the corresponding National Gallery policy and/or guidelines.

### **First Nations cultural competency training**

370. The Director will take reasonable steps to ensure all substantive, ongoing EL2 employees employed at the commencement of this Agreement or any new substantive, ongoing EL2 employees who commence within the first six months of this Agreement will complete relevant First Nations cultural competency training within 12 months of the commencement of the Agreement.
371. Any new substantive, ongoing EL2 employee who commences after six months of the commencement of this Agreement will be required to complete a relevant First Nations cultural competency training course within six months of their engagement or promotion.

### **Lactation and breastfeeding support**

372. Reasonable paid time during work hours will be provided for lactation breaks for breastfeeding, expressing milk and other associated activities.
373. The National Gallery will provide access to appropriate facilities for the purpose of breastfeeding or expressing milk, subject to clause 374. In considering whether a space is appropriate, the National Gallery should consider whether:
- 373.1. there is access to refrigeration;
  - 373.2. the space is lockable; and
  - 373.3. there are facilities needed for expressing, such as appropriate seating.
374. Where it is not practicable for a National Gallery site to have a designated space, a flexible approach will be taken so that the employee can access the support required.
375. The National Gallery will facilitate discussion between individual employees and their supervisors about accommodating the employee's lactation needs and practical arrangements to meet these needs.
376. The supervisor and employee shall discuss any flexible working arrangements that may be needed to support lactation. This may include consideration of arrangements such as working from home and/or remote working or varying work hours on an ad-hoc or regular basis. Wherever possible, requests by an employee will be accommodated, noting these needs may be changed over time.
377. Further information is available in the corresponding National Gallery policy and/or guidelines.

## **Disaster support**

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

## **Blood donation**

- 381. An employee can take reasonable time away from duty during their ordinary work hours to donate blood, plasma or platelets. It includes reasonable travel time and employers will consider employees on duty.
- 382. The employee must inform their supervisor in advance of when they will be away from work before donating blood, plasma or platelets.

## **Vaccinations**

- 383. The National Gallery will offer annual influenza vaccinations at no cost to all employees.
- 384. Where the National Gallery requires an employee performing a role to be vaccinated for a particular condition, this vaccination will be offered at no expense to the employee.

## **Employee Assistance Program**

- 385. Employees, their partners, and their dependants/children will have access to a confidential, professional counselling service to assist employees to manage personal and work issues. This service will be provided at no cost to employees by the National Gallery and will be accessible on paid time.

## **Healthy Employees**

- 386. To encourage healthy team activities and wellbeing, National Gallery employee teams will be provided with up to \$730 towards registration, outfits, kits, equipment, and/or other costs associated with participating in sporting or wellbeing activities. In the case of a sporting team, it is expected that team members will be predominantly National Gallery employees.

## **Financial planning**

- 387. All ongoing and non-ongoing employees, employed for periods of over 12 months and who are 50 years of age or over are entitled to a one-off reimbursement of retirement planning advice, up to a total of \$585.

## **Family care expenses**

- 388. Where an employee is required by the National Gallery to be away from home outside normal working hours, the Director will reimburse reasonable costs in relation to additional family care arrangements, in cases of exceptional circumstances e.g., required to travel with 24 hours or less notification.

## **Eyesight testing**

389. Eyesight testing may be requested by an employee who is engaged in tasks involving screen-based equipment and/or specialised work tasks which require particular visual acuity not normally required for general tasks (e.g. microscopy).
390. An employee is entitled to testing every two years unless symptoms occur which indicate that further testing is necessary. An employee applying for testing more frequently than biennial intervals should support their application with medical evidence.
391. For other tasks which require particular visual acuity (other than screen-based work), the range of tests and testing procedures will be set as recommended by the Work Health and Safety Committee.
392. The National Gallery will meet the reasonable costs of screening and full vision examination by an optometrist, including ophthalmologist fees (where necessary), and will meet the reasonable costs of the initial examination, and the review examination (if required). The National Gallery will meet the reasonable cost of spectacles prescribed when they are certified as necessary to achieve vision to perform tasks associated with screen-based equipment, and/or undertake specialised work tasks which require particular visual acuity not normally required for general tasks (e.g. microscopy).
393. Reasonable costs are 80% of the receipted costs (original receipts only) to a maximum of \$292 for single vision spectacles and \$380 for bifocal or multi-focal lenses. If an employee is claiming the gap between their health fund payment and the cost of the spectacles a receipt/statement from the fund of the amount claimed/paid will be required.
394. For more information refer to the corresponding National Gallery policy and/or guidelines.

## **Section 8: Performance and development**

### **Performance agreements**

395. Performance agreements are an essential component of the National Gallery's strategies to manage performance.
396. An employee (except an employee whose contract is for a period of less than six months) must participate in the National Gallery's performance process, including preparing a performance agreement with their supervisor and having this in place for the performance cycle.
397. A performance agreement serves three purposes:
  - 397.1. aligns individual effort to the National Gallery's strategic goals;
  - 397.2. enables an employee to undertake appropriate career planning and to consider their training and development requirements; and
  - 397.3. provides a mechanism for assessing suitability for salary advancement, if eligible.
398. The performance cycle will be from 1 September each year until 31 August the following year.
399. An employee and their supervisor will participate in a minimum of two performance conversations in each performance cycle (mid and end cycle).
400. Changes to work programs, or the ability to perform work resulting from disruptions to the work environment, must be reflected through an updated performance agreement. Updated performance agreements will be developed with the participation of the employee and their supervisor.
401. Where a supervisor considers that health and/or personal matters may be contributing to an employee's poor performance, they will, in the first instance, discuss their concerns with the individual.

### **Managing underperformance**

402. If at any time, poor performance is identified, the supervisor and the employee are to work together through performance counselling, guidance and regular feedback to bring performance back to the standard expected. Where, despite such efforts, an employee's performance continues to fall below the expected standard, a period of formal performance counselling and assessment will commence.
403. Where a formal underperformance process is to be applied, the employee will be notified of the following:
  - 403.1. how the employee's performance is not meeting the required standard;
  - 403.2. that performance will need to improve;
  - 403.3. how the employee's performance will be assessed, and over what period of time (normally 12 weeks); and
  - 403.4. the possible consequences if the employee has not attained and sustained the required standards by the end of the assessment period.
404. The formal performance counselling period is aimed at enabling the employee to attain and sustain effective performance. The supervisor is to support the employee throughout this process. The supervisor is to:

- 404.1. set realistic and achievable expectations;
  - 404.2. focus on the areas requiring improvement; and
  - 404.3. extend the assessment period where the employee has not had a reasonable opportunity and period of time to improve their performance.
405. An employee has the right to be represented during underperformance discussions between the employee and their supervisor.
406. Where an employee's performance remains unsatisfactory following the formal assessment period, the Director will determine what action to take ranging from reassignment of duties to termination. Prior to taking that action the Director will provide the employee with an opportunity to respond to the proposed course of action.

### **Code of Conduct**

407. The National Gallery sets out the conduct and behavioural expectations for employees in the National Gallery's Code of Conduct.
408. Breaches of the National Gallery's Code of Conduct are defined as misconduct and/or serious misconduct.
409. 'Misconduct' means dereliction of duty or wilful conduct that is unsatisfactory. In deciding whether conduct is misconduct, decision makers will have regard to the National Gallery's Code of Conduct document.
410. 'Serious misconduct' means a recurrence or continuation of conduct which has been previously found to be misconduct on the part of the employee; or serious misbehaviour, which may be a single occurrence, of a kind which constitutes:
- 410.1. a serious impediment to the carrying out of an employee's duties, or to other staff carrying out their duties;
  - 410.2. a serious risk to the safety of staff or other persons in the National Gallery;
  - 410.3. a serious risk to the National Gallery's property;
  - 410.4. a serious dereliction of duties; or
  - 410.5. a conviction by a court of an offence which constitutes a serious impediment to the carrying out of the duties.
411. The principles of procedural fairness and natural justice will be applied to all misconduct processes.
412. Disciplinary action may be recommended in instances of misconduct and serious misconduct. If there is a suspected breach of the National Gallery's Code of Conduct, an investigation will take place.
413. An employee may choose to be represented at any stage of the process associated with the investigation and determination of a breach of the National Gallery's Code of Conduct. The National Gallery will recognise that representation.
414. Where an employee is suspected to have breached the National Gallery's Code of Conduct the Director may take the following action whilst an investigation is undertaken:
- 414.1. temporarily move an employee to another location; or
  - 414.2. reassign the employee to different duties; or

- 414.3. suspend the employee from duty for the duration of the investigation. The employee will continue to be paid during the period of suspension unless the Director determines that the period of suspension will be unpaid due to the nature of the suspected breach of the National Gallery's Code of Conduct.
- 415. If following an investigation, a breach of the National Gallery's Code of Conduct is found, the Director may impose one or more of the following sanctions:
  - 415.1. reprimand;
  - 415.2. deductions from salary (fine);
  - 415.3. reduction in salary;
  - 415.4. re-assignment of duties;
  - 415.5. reduction in classification; and
  - 415.6. termination of employment.
- 416. Prior to imposing a sanction, the Director will provide the employee with an opportunity to respond to the proposed action to be taken. An employee will be required to respond within seven working days. This period may be extended at the discretion of the Director.
- 417. In instances of disciplinary action (with the exception of termination of employment) the employee may seek a review of the decision.
- 418. Further information is available in the corresponding National Gallery policy and/or guidelines.

### **Workloads**

- 419. The National Gallery recognises the importance of employees balancing their work and personal life. While it is acknowledged that at times it may be necessary for some extra hours being worked by some employees, this should be regarded as the exception rather than the rule.
- 420. When determining workloads for an employee or group of employees, the National Gallery will consider the need for employees to strike a balance between their work and personal life.
- 421. Where an employee or group of employees raise that they have experienced significant workload pressures over a prolonged period of time, the National Gallery and employee/s together must review the employees' workloads and priorities, and determine appropriate strategies to manage the impact on the employee or group of employees.

### **Study assistance**

- 422. The National Gallery encourages its employees to undertake formal study in fields directly relevant to the employee's position, that link to the achievement of the National Gallery's corporate goals and which enhance professional development in line with their performance agreements.
- 423. The Director may grant up to 70 hours paid study leave per semester for approved study activities that involve regular attendance at lectures, tutorials etc. at an educational institution in the same locality as the student.
- 424. An employee undertaking:
  - 424.1. external studies/distance education;
  - 424.2. face to face activities that fall outside ordinary hours of work; or

424.3. activities related only to the preparation and presentation of a thesis

may apply to the Director for leave with full pay, of up to 42 hour per semester, to travel to and from residential courses or seminars or any other study activities required for successful completion of the course of study.

- 425. Where extenuating circumstances exist, the Director may grant additional study leave for tuition purposes. Each case will be considered on its merits.
- 426. Study leave with pay counts as service.
- 427. Study leave without pay may also be granted by the Director. However, it is limited to 12 months unless under exceptional circumstances.
- 428. In addition, the National Gallery will offer financial assistance to help employees with approved studies up to \$1,500 per annum (maximum of \$750 per semester) to help meet compulsory costs such as course fees and textbooks.
- 429. Further information can be found in the corresponding National Gallery policy and/or guidelines.

### **Learning and development**

- 430. The National Gallery is committed to ensuring all employees have access to capability and professional development opportunities to ensure the maintenance of professional standards of employees so that they have the skills required for their current position and their future career at the National Gallery. These opportunities are provided through a framework of National Gallery policies and procedures which facilitate access for employees to organisational-level opportunities to develop and use their skills. This is reinforced by supervisor-led support, encouragement and opportunities and employee-led responsibility for development needs which are raised and addressed through the National Gallery's performance management process.



## **Section 9: Travel and location-based conditions**

### **Travel**

431. An employee who is required by the Director to be absent overnight from their usual place of work on official business within Australia and who is not issued with a National Gallery credit card will have their actual reasonable costs of hotel/motel accommodation and meals and incidentals met by the National Gallery. The maximum reasonable costs will be those identified and published by the Australian Taxation Office. Any additional accommodation, meals and incidentals costs will require the prior approval of the Director.
432. An employee who is required to be absent from their usual place of work on official business for a period longer than 10 hours but is not absent overnight will be paid a taxable part day travel allowance at the rate determined by the Australian Taxation Office.
433. An employee is entitled to economy class travel where required to travel for official business within Australia. An employee travelling overseas on official business is entitled to premium economy class travel and will be entitled to a rest day on arrival to and return from overseas. Any additional requirements relating to overseas travel class upgrades or other special consideration resulting in additional costs will require prior approval of the Director.
434. Details can be found in the corresponding National Gallery policy and/or guidelines.

### **Relocation assistance**

435. The National Gallery may meet the reasonable costs for transport, removal and temporary accommodation for employees who relocate from a different geographical location on appointment to the National Gallery.
436. More information can be found in the corresponding National Gallery policy and/or guidelines.

## Section 10: Consultation, representation and dispute resolution

### Consultation

#### *Principles*

437. Genuine and effective consultation with employees and the relevant union(s), taking into account the diverse needs of employees, fosters a positive and inclusive workplace, enabling the views of employees to be considered.
438. The National Gallery recognises:
- 438.1. the importance of inclusive and respectful consultative arrangements;
  - 438.2. employees and the relevant union(s) should have a genuine opportunity to influence decisions;
  - 438.3. the nature and extent of consultation will vary depending on the proposed change and the likely impact on employees. Consultation on National Gallery policies may occur over at least two weeks, whereas a major change is likely to require a more extensive consultation process;
  - 438.4. consultation with employees and relevant unions(s) on workplace matters that significantly affect or materially impact them is sound management practice; and
  - 438.5. the benefits of employee and union involvement and the right of employees to be represented by their union.
439. Genuine and effective consultation involves:
- 439.1. providing employees and the relevant union(s) with a genuine opportunity to influence the decision prior to a decision being made;
  - 439.2. providing all relevant information to employees and the relevant union(s) in a timely manner to support consideration of the issues;
  - 439.3. considering feedback from employees and the relevant union(s) in the decision-making process; and
  - 439.4. advising employees and the relevant union(s) of the outcome of the process, including how their feedback was considered in the decision-making process.

#### *When consultation is required*

440. Consultation is required in relation to:
- 440.1. changes to work practices which materially alter how an employee carries out their work;
  - 440.2. changes to or the introduction of policies or guidelines relevant to workplace matters (unless the changes are minor or procedural);
  - 440.3. major change that is likely to have a significant effect on employees;
  - 440.4. implementation of decisions that significantly affect employees;
  - 440.5. changes to employees' regular roster or ordinary hours of work (subject to any other relevant provisions in this Agreement); and
  - 440.6. other workplace matters that are likely to significantly or materially impact employees.

441. The National Gallery, employees and the relevant union(s) recognise that consultation prior to a decision may not be practicable where a decision is made by Government or is required due to matters beyond the reasonable control of the National Gallery. In these circumstances, consultation regarding the implementation of the decision will occur as early as is reasonably practicable.

*Provisions for consultation on major change and introduction of a change to regular roster or ordinary hours of work of employees*

442. These consultation clauses apply if the National Gallery:

442.1. proposes to introduce a major change to production, program, organisation, structure or technology in relation to its enterprise that is likely to have a significant effect on the employees; or

442.2. proposes to introduce a change to the regular roster or ordinary hours of work of employees.

*Representation*

443. Employees may appoint a representative for the purposes of the procedures in this clause. A representative for the purpose of this clause may be a union representative.

444. The National Gallery must recognise the representative if:

444.1. a relevant employee appoints, or relevant employees appoint, a representative for the purposes of consultation; and

444.2. the employee or employees advise the employer of the identity of the representative.

*Major change*

445. In this clause, a major change is likely to have a significant effect on employees if it results in, for example:

445.1. the termination of the employment of employees; or

445.2. major change to the composition, operation or size of the employer's workforce or to the skills required of employees; or

445.3. the elimination or diminution of job opportunities (including opportunities for promotion or tenure); or

445.4. the alteration of hours of work; or

445.5. the need to retrain employees; or

445.6. the need to relocate employees to another workplace; or

445.7. the restructuring of jobs.

446. The following additional consultation requirements in clauses 447 to 453 apply to a proposal to introduce a major change referred to in clause 440.3.

447. Consultation with employees and the relevant union(s) and/or recognised representatives will occur prior to a decision being made, subject to clause 441.

448. Where practicable, a National Gallery change manager or a primary point of contact will be appointed and their details provided to employees and the relevant union(s) and/or their recognised representatives.

449. The National Gallery must notify employees and relevant union(s) and/or recognised representatives of the proposal to introduce the major change as soon as practicable.
450. As soon as practicable after proposing the change, or notifying of the change in circumstances described at clause 441, the National Gallery must:
- 450.1. discuss with affected employees and relevant union(s) and/or other recognised representatives:
    - 450.1.1. the proposed change;
    - 450.1.2. the effect the proposed change is likely to have on the employees; and
    - 450.1.3. proposed measures to avert or mitigate the adverse effect of the proposed change on the employees; and
  - 450.2. for the purposes of the discussion – provide, in writing, to employees and the relevant union(s) and/or other recognised representatives:
    - 450.2.1. all relevant information about the proposed change, including the nature of the change proposed; and
    - 450.2.2. information about the expected effects of the proposed change on the employees; and
    - 450.2.3. any other matters likely to affect the employees.
451. The National Gallery must give prompt and genuine consideration to matters raised about the major change by employees and the relevant union(s) and/or other recognised representatives.
452. However, the National Gallery is not required to disclose confidential or commercially sensitive information to employees and the relevant union(s) and/or other recognised representatives.
453. If a term in this Agreement provides for a major change to production, program, organisation, structure or technology in relation to the enterprise of the National Gallery, the requirements set out in clauses 447 to 451 are taken not to apply.

*Change to regular roster or ordinary hours of work*

454. The following additional consultation requirements in clause 455 to 458 apply to a proposal to introduce a change referred to in clause 440.5.
455. The National Gallery must notify affected employees and the relevant union(s) and/or other recognised representatives of the proposed change.
456. As soon as practicable after proposing to introduce the change, the National Gallery must:
- 456.1. discuss with employees and the relevant union(s) and/or other recognised representatives:
    - 456.1.1. the proposed introduction of the change; and
  - 456.2. for the purposes of the discussion – provide to the employees and relevant union(s) and/or other recognised representatives:
    - 456.2.1. all relevant information about the proposed change, including the nature of the proposed change; and
    - 456.2.2. information about what the employer reasonably believes will be the effects of the proposed change on the employees; and

456.2.3. information about any other matters that the employer reasonably believes are likely to affect the employees; and

456.3. invite employees and the relevant union(s) and/or other recognised representatives to give their views about the impact of the change (including any impact in relation to their family or caring responsibilities). However, the National Gallery is not required to disclose confidential or commercially sensitive information to the relevant employees and the relevant union(s) and/or other recognised representatives.

457. The National Gallery must give prompt and genuine consideration to matters raised about the proposed change by the employees and the relevant union(s) and/or other recognised representatives.

#### *Interaction with emergency management activities*

458. Nothing in this term restricts or limits the ability of a designated emergency management body to undertake activities provided at section 195A(1) of the FW Act.

### **Gallery Consultative Committee (GCC)**

459. The National Gallery will maintain a GCC to facilitate information sharing, consultation and discussion with employees. A Charter will be agreed through the GCC. The GCC will:

459.1. be chaired by a senior member of management;

459.2. aim to meet quarterly; and

459.3. oversee the implementation of this Agreement.

460. The GCC will also take account of the views and feedback of employees, and where they choose their representatives, where an amendment to, or introduction of, new policies that support the operation of the Agreement is proposed. Such comments or feedback will be taken into account by the National Gallery prior to finalising the policy.

461. The National Gallery will continue to consult through both formal and informal forums including the GCC.

### **Dispute resolution**

462. If a dispute relates to:

462.1. a matter arising under the Agreement; or

462.2. the NES;

this term sets out procedures to settle the dispute.

463. An employee or union who is covered by this Agreement may initiate and/or be a party to a dispute under this term.

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

465. Parties to the dispute must attempt to resolve the dispute at the workplace level, by discussion between the employee or employees and relevant managers. Parties to the dispute will notify higher level managers to assist in the resolution of the dispute. Parties will give genuine consideration to proposals to resolve the dispute.

466. If a dispute about a matter arising under this Agreement is unable to be resolved at the workplace level, and all appropriate steps under clause 465 have been taken, a party to the dispute may refer the dispute to the Fair Work Commission.

467. The Fair Work Commission may deal with the dispute in two stages:

467.1. the Fair Work Commission will first attempt to resolve the dispute as it considers appropriate, including by mediation, conciliation, expressing an opinion or making a recommendation; and

467.2. if the Fair Work Commission is unable to resolve the dispute at the first stage, the Fair Work Commission may then:

467.2.1. arbitrate the dispute; and

467.2.2. make a determination that is binding on the parties.

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

468. While the parties are attempting to resolve the dispute using the procedures in this term:

468.1. an employee must continue to perform their work as they would normally in accordance with established custom and practice at the National Gallery that existed immediately prior to the dispute arising unless they have a reasonable concern about an imminent risk to their health or safety; and

468.2. subject to 468.1, an employee must comply with a direction given by the employer to perform other available work at the same workplace, or at another workplace, unless:

468.2.1. the work is not safe; or

468.2.2. applicable work health and safety legislation would not permit the work to be performed; or

468.2.3. the work is not appropriate for the employee to perform; or

468.2.4. there are other reasonable grounds for the employee to refuse to comply with the direction.

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

470. Any disputes arising under the *National Gallery of Australia Enterprise Agreement 2018 - 2021* or the NES that were formally notified under clause A.8 of that agreement before the commencement of this Agreement, that remain unresolved at the date of commencement of this Agreement, will be progressed under the dispute resolution procedures in this Agreement.

*Leave of absence to attend proceedings*

471. Where the provisions of clauses 462 to 466 have been complied with, and to assist in the resolution of the matter, the employee, and/or the union delegate or other employee representative referred to in clause 463, or employee required to provide evidence, will be granted paid time to attend dispute resolution processes and proceedings in the Fair Work Commission arising from referral of the matter in clause 466.

## **Freedom of association**

472. The National Gallery recognises that an employee is free to choose whether or not to join a union. Irrespective of that choice, an employee will not be disadvantaged or discriminated against in respect of their employment under this Agreement.

## **Employee representation**

473. An employee may have an employee representative, who may be a union representative, to represent them in their industrial interests.

## **Delegates' rights**

474. Union delegates play an important and legitimate role in the workplace. This includes representing their members and supporting employee access to union officials, and providing employee views to the National Gallery.
475. The role of union delegates is to be respected and supported.
476. The National Gallery and union delegates will work together respectfully and collaboratively.

### *Supporting the role of union delegates*

477. The National Gallery respects the role of union delegates to:
- 477.1. provide information, consult with and seek feedback from employees in the workplace on workplace matters;
  - 477.2. consult with other delegates and union officials, and get advice and assistance from union officials;
  - 477.3. represent the interests of members to the employer and industrial tribunals; and
  - 477.4. represent members at relevant union forums, consultative committees or bargaining.
478. The National Gallery and union delegates recognise that undertaking the role of a union delegate is not the primary purpose of an employee's engagement, and must work with and not unreasonably impact their regular duties. Honorary officials may request additional time and facilities from time to time.
479. Union delegates will be provided with reasonable paid time during their ordinary hours of work to perform their union delegate role. The paid time provided should not result in disruption to critical services or operational requirements.
480. To support the role of union delegates, the National Gallery will, subject to legislative and operational requirements, including privacy and security requirements:
- 480.1. provide union delegates with reasonable access to National Gallery facilities and resources, including for paid or unpaid meetings between employees and their unions and to communicate with union officials;
  - 480.2. advise union delegates and other union officials of the National Gallery facilities and resources available for their use, which may include telephone, photocopying, internet, and email;
  - 480.3. allow reasonable official union communication appropriate to the National Gallery from union delegates with employees, including through email, intranet pages and notice boards. This may include providing a link to a union website for employees to access

union information. Any assistance in facilitating email communications does not include the National Gallery vetoing reasonable communications;

480.4. provide access to new employees as part of induction; and

480.5. provide reasonable access to union delegates to attend appropriate paid time training in workplace relations matters, during normal working hours.

481. Where National Gallery employees are elected as officials of a trade union or professional association, they are not required to seek permission from the National Gallery before speaking publicly in that capacity, subject to the National Gallery Code of Conduct and legislative requirements.



## **Section 11: Redeployment, Retirement, Redundancy and Employee Initiated Separation (Resignation)**

### **Resignation**

482. Where an employee wishes to resign from their employment at the National Gallery, they are required to give two weeks' notice (four weeks for NGA Level 6 and EL staff) of their intention to resign unless otherwise agreed. This notice period will enable the employee to complete outstanding tasks and/or hand over work to other employees, and will allow the National Gallery to commence action to fill the position and to process the employee's final entitlements.
483. Where it is feasible, employees will be encouraged to exhaust all of their accumulated annual and flex leave credits before commencement of any leave without pay.

### **Review of decisions to terminate employment**

484. The sole and exhaustive rights and remedies of an employee in relation to termination of employment are those that the employee enjoys under Part 3-2 of Chapter 3 and Part 6-4 of the FW Act, other Commonwealth laws (including the Constitution), and at common law.
485. Termination of, or a decision to terminate, employment cannot be reviewed under the dispute resolution procedures at clauses 462 to 470 (and clause 471 is therefore of no application) or review of employment related actions procedures at clauses 10 and 11.
486. Nothing in this Agreement prevents the National Gallery from terminating the employment of an employee for serious misconduct, without further notice or payment in lieu, in accordance with section 123 of the FW Act.

### **Payment on death of an employee**

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

### **Redeployment, retirement and redundancy**

488. These provisions apply only to ongoing employees. They do not apply to employees on probation or non-ongoing employees.
489. The following redeployment, retirement and redundancy provisions will apply to excess employees of the National Gallery.

### **Consultation process**

490. When the Director is aware that an employee is likely to become excess, the Director will, at the earliest practicable time, advise the situation in writing to the employee(s) and where they choose, their representative.

491. Where the employee nominates a representative they wish to be involved in this matter, the Director will hold discussions (the discussion period not exceeding one month) with the employee and their representative to consider:
- 491.1. measures that could be taken to resolve the situation, including redeployment and retraining opportunities for the employee at or below their permanent classification level; and
  - 491.2. whether voluntary redundancy might be appropriate.
492. Where 15 or more employees are likely to become excess the Director will comply with the notification provisions contained in sections 530 and 531 of the FW Act.
493. The Director may, prior to the conclusion of these discussions, invite employees who are not excess employees to express interest in voluntary redundancy, where the redundancy of those employees would permit the redeployment of employees who are in a redundancy situation and who would otherwise remain excess.
494. The Director will identify the employees who are excess to the National Gallery's requirements:
- 494.1. after the discussions specified above have been held; or
  - 494.2. where the employee or the employee's representative has declined to discuss the matter, one month after the Director has advised the employee,
- whichever is the lesser, and may immediately advise those employees in writing that they are excess.
495. The Director will then establish through consultation with the identified employees, which employees want to be offered voluntary redundancy immediately and which employees seek redeployment.
496. The Director will take all reasonable steps, consistent with the interests of the efficient administration of the National Gallery, to transfer an excess employee to a suitable vacancy at the same level within the National Gallery.

### **Voluntary redundancy**

497. Where the Director invites an excess employee to accept voluntary redundancy, subject to the below clause being met, the employee will have one month in which to accept the offer.
498. Within the first two weeks of that month, an employee invited to accept voluntary redundancy must be given advice on the:
- 498.1. amount of severance pay, pay in lieu of notice and paid out leave credits;
  - 498.2. amount of accumulated superannuation contributions;
  - 498.3. options open to the employee concerning superannuation (through ComSuper or another provider); and
  - 498.4. taxation rules applying to the various payments (through the Australian Taxation Office).
499. Where the offer is accepted, the Director will not give notice of redundancy before the end of the one-month period, unless the employee has received all of the above information, and chooses to waive the remainder of the period.
500. In addition, financial assistance will be provided (up to a maximum of \$585) for financial advice.
501. Only one offer of voluntary redundancy will be made to an excess employee.

## **Period of notice**

502. Where an excess employee accepts an offer of voluntary redundancy, the Director will provide the employee with notice of termination. The period of notice will be four weeks (or five weeks for an employee over 45 with at least five years of continuous service).
503. Where an employee retires or is retired at the beginning of, or within, the notice period, the employee will receive payment in lieu of notice as set out in the FW Act for the unexpired portion of the notice period.

## **Severance benefit**

504. An employee made redundant in accordance with the above clauses is entitled to be paid a sum equal to two weeks' salary for each completed year of continuous service, plus a pro-rata payment for completed months of service since the last completed year of service subject to any minimum amount the employee is entitled to under the NES.
505. The minimum sum payable will be four weeks salary and the maximum will be 48 weeks salary.
506. The severance benefit will be calculated on a pro-rata basis for any period where an employee has worked part-time hours during their period of service and the employee has less than 24 years full-time service.
507. Service for severance pay purposes means:
- 507.1. service in the National Gallery;
  - 507.2. Government service as defined in section 10 of the LSL Act;
  - 507.3. service with the Commonwealth (other than service with a joint Commonwealth-State body corporate in which the Commonwealth has a controlling interest) which is recognised for long service leave purposes;
  - 507.4. service with the Australian Defence Force; and
  - 507.5. service in another agency, where the employee was transferred from the APS to that agency with a transfer of function; or an employee engaged by that agency on work within a function is appointed as a result of the transfer of that function to the APS; and such service is recognised for long service leave purposes.
508. For earlier periods of service to count there must be no breaks between the periods of service, except where:
- 508.1. the break in service is less than one month and occurs where an offer of employment with the new employer was made and accepted by the employee before ceasing employment with the preceding employer; or
  - 508.2. the earlier period of service was with the APS and ceased because the employee was deemed to have resigned from the APS on marriage under the repealed section 49 of the *Public Service Act 1922*.
509. Any period of service which ceased by way of redundancy; retirement on grounds of invalidity; inefficiency or loss of qualifications; forfeiture of office; dismissal; termination of probation appointment for reasons of unsatisfactory service; or voluntary retirement at or above the minimum retiring age applicable to the employee or with the payment of an employer-financed retirement benefit will not count as service for severance pay purposes.
510. Absences from work which do not count as service for long service leave purposes will not count as service for severance pay purposes.

### **Rate of payment - severance benefit**

511. For the purpose of calculating any payment under these clauses, salary will include:
- 511.1. the employee's salary at their substantive classification level; or
  - 511.2. the salary of the higher work value level, where the employee has been working at the higher level for a continuous period of at least 12 months immediately preceding the date on which the employee is given notice of retirement;
  - 511.3. shift penalties, where the employee has undertaken shift work and is entitled to shift penalties for 50% or more of the pay periods in the 12 months preceding being given notice of retirement. A weekly average of penalties due over the 12 months will be included in the salary; and
  - 511.4. other allowances in the nature of salary which are paid during periods of annual leave and on a regular basis, excluding allowances which are a reimbursement for expenses incurred, or a payment for disabilities associated with the performance of duty.

### **Retention periods, redeployment and retraining**

512. Unless the employee agrees, an excess employee will not be involuntarily retired until the following retention periods have elapsed:
- 512.1. 13 months where an employee has 20 or more years of service or is over 45 years of age; or
  - 512.2. seven months for other employees.
- If an employee is entitled to a redundancy payment under the NES, their retention period will be reduced by the employee's redundancy pay entitlement under the NES on termination, calculated as at the expiration of the retention period (as adjusted by this clause).
513. The retention period will commence on the earlier of the following:
- 513.1. the day the employee is advised in writing by the Director that they are an excess employee; or
  - 513.2. one month after the day on which the Director invites the employee to accept voluntary redundancy.
514. The retention period will be extended by any periods of certified sick leave taken during the retention period.
515. During the retention period the Director will continue to take reasonable steps to find alternative employment for the excess employee, which may include retraining.
516. During the retention period the Director may, with four weeks' notice, transfer the excess employee to a job with a lower classification. Where this occurs before the end of an employee's retention period, the employee will receive income maintenance to maintain their salary at the previous higher level for the balance of the retention period.
517. The Director may approve an excess employee's request for assistance in meeting reasonable travel and incidental expenses incurred in seeking alternative employment.
518. Excess employees and potentially excess employees will be considered for vacant positions in isolation from and not in competition with other applicants for an advertised vacancy for which an excess employee seeks transfer. In order to be successful, the excess employee must

demonstrate they possess the ability to perform the tasks of the position to a competent level within a reasonable period.

519. An excess employee required to move the employee's household to a new locality as a result of a transfer or reduction in classification will be entitled to reasonable expenses.
520. Where the Director is satisfied that there is insufficient productive work available for the employee within the National Gallery during the remainder of their retention period the Director may, with the agreement of the employee, terminate the employee's employment and pay the balance of the retention period as a lump sum and this payment will be taken to include the payment in lieu of notice of termination.
521. Upon termination of employment, the employee will be paid a lump sum comprising:
  - 521.1. the balance of the retention period (as shortened for the NES) and this payment will be taken to include the payment in lieu of notice of termination of employment; and
  - 521.2. an additional redundancy payment equal to the amount the retention period was shortened by the NES component.

### **Involuntary retirement**

522. Subject to the clauses immediately below, the Director may involuntarily retire an excess employee at the end of the retention period.
523. An excess employee will not be retired involuntarily if the employee has not been invited to accept an offer of voluntary redundancy or has elected to be retired but the Director has refused to approve it.
524. An excess employee will not be retired involuntarily without being given four weeks' notice (or five weeks' notice for an employee over 45 with at least five years of continuous service) of termination or payment in lieu of notice.
525. The specified periods of notice will as far as practical be concurrent with the retention period.

### **Accelerated separation arrangements for redundancy purposes**

526. The Director may provide employees likely to be subject to the Redeployment, Retirement and Redundancy provisions of this Agreement with an accelerated separation option. In these circumstances the Director will, as soon as reasonably practicable, advise the employee, and where they choose their representative which may include the relevant union.
527. In addition to the severance benefit, this option provides employees who have been identified as eligible to be made an offer of voluntary redundancy and who retire within 14 days of receiving it, an amount of eight weeks' salary (or nine weeks' salary for an employee 45 years of age with at least five years of continuous service). The payments made under this clause are inclusive of any award or statutory entitlement to payment in lieu of notice.
528. This option is available to employees whose employment at the National Gallery is terminated prior to the commencement of any formal consultation with employees and their nominated representatives, noting that at any time, the employee may nominate a representative they wish to be involved in this matter, in which case the Director will hold discussions with the employee and their representative.
529. Employees who may be considering accelerated separation arrangements for redundancy purposes are encouraged to seek financial advice prior to making their decision.

530. Where an employee has elected not to accept an offer under this option, the redeployment, retirement and redundancy provisions of this Agreement will then apply.

## Attachment A – Base salary rates

Classification	Pay Point	From 27 October 2023	From 27 October 2024	From 27 October 2025
NGA Level 1	L1.1	\$52,165	\$54,147	\$55,988
	L1.2	\$52,165	\$54,147	\$55,988
	L1.3	\$54,095	\$56,151	\$58,060
NGA Level 2	L2.1	\$56,479	\$58,625	\$60,618
	L2.2	\$57,847	\$60,046	\$62,087
	L2.3	\$61,353	\$63,685	\$65,850
NGA Level 3	L3.1	\$62,546	\$64,923	\$67,130
	L3.2	\$64,125	\$66,562	\$68,825
	L3.3	\$68,027	\$70,612	\$73,013
NGA Level 4	L4.1	\$70,138	\$72,803	\$75,279
	L4.2	\$71,892	\$74,623	\$77,161
	L4.3	\$76,242	\$79,139	\$81,830
NGA Level 5	L5.1	\$77,408	\$80,349	\$83,081
	L5.2	\$78,883	\$81,881	\$84,665
	L5.3	\$83,050	\$86,206	\$89,137
NGA Level 6	L6.1	\$85,870	\$89,133	\$92,164
	L6.2	\$91,722	\$95,208	\$98,445
	L6.3	\$96,203	\$99,858	\$103,253
	L6.4	\$99,256	\$103,028	\$106,531
Executive Level 1	EL1.1	\$108,322	\$112,438	\$116,261
	EL1.2	\$112,252	\$116,517	\$120,479
	EL1.3	\$123,601	\$128,298	\$132,660
Executive Level 2	EL2.1	\$126,228	\$131,025	\$135,480
	EL2.2	\$135,751	\$140,909	\$145,700
	EL2.3	\$144,262	\$149,744	\$154,835

## Attachment B – Additional salary rates

The following additional Executive Level pay points may be available at the discretion of the Director.

Classification	Pay Point	From 27 October 2023	From 27 October 2024	From 27 October 2025
Executive Level 1	EL1.4	\$129,799	\$134,731	\$139,312
Executive Level 2	EL2.4	\$146,688	\$152,262	\$157,439



## Attachment C – Trade related allowances

Description	From 27 October 2023	From 27 October 2024	From 27 October 2025
Electrical Trade Allowance (formerly paid as Licence and Swinging Scaffold Allowances) - payable to qualified electrical staff only	\$111.12/fn	\$115.35/fn	\$119.28/fn
Epoxy based materials - with catalyst hardener and reactive additives or two-page catalyst systems	\$1.03/hr	\$1.07/hr	\$1.11/hr
Epoxy based materials - in close proximity	\$0.83/hr	\$0.86/hr	\$0.89/hr
Welding – Aluminium MIG	\$1.40/hr	\$1.46/hr	\$1.51/hr
Welding – other	\$1.00/hr	\$1.04/hr	\$1.08/hr
Welding – Plasma arc process	\$1.40/hr	\$1.46/hr	\$1.51/hr
Welding – Aluminium TIG	\$1.00/hr	\$1.04/hr	\$1.08/hr

## Attachment D – Supported Wage System

1. This schedule defines the condition which will apply to employees because of the effects of a disability and who are eligible for a supported wage under the terms of this Agreement.

### Definitions

2. In this schedule:

**Approved assessor** means a person accredited by the management unit established by the Commonwealth under the supported wage system to perform assessments of an individual's productive capacity within the supported wage system.

**Assessment instrument** means the tool provided for under the supported wage system that records the assessment of the productive capacity of the person to be employed under the supported wage system.

**Disability Support Pension** means the Commonwealth Government pension scheme to provide income security for persons with a disability as provided under the *Social Security Act 1991* (Cth), as amended from time to time, or any successor to that scheme.

**Relevant minimum wage** means the minimum wage prescribed in this Agreement for the class of work for which an employee is engaged.

**Supported Wage System (SWS)** means the Commonwealth Government system to promote employment for people who cannot work at full Agreement wages because of a disability, as documented in the Supported Wage System Handbook. The Handbook is available from the JobAccess website ([www.jobaccess.gov.au](http://www.jobaccess.gov.au)).

**SWS wage assessment agreement** means the document in the form required by the Department of Social Services that records the employee's productive capacity and agreed wage rate.

### Eligibility criteria

3. Employees covered by this schedule will be those who are unable to perform the range of duties to the competence level required within the class for which the employee is engaged under this Agreement, because of the effects of a disability on their productive capacity and who meet the impairment criteria for receipt of a disability support pension.
4. The schedule does not apply to any existing employee who has a claim against the employer which is subject to the provisions of workers compensation legislation or any provision of this Agreement relating to the rehabilitation of employees who are injured in the course of their employment.

### Supported wage rates

5. Employees to whom this clause applies shall be paid the applicable percentage of the relevant minimum wage according to the following schedule:

Assessed capacity	Percentage of Agreement rate
10 per cent	10 per cent
20 per cent	20 per cent

30 per cent	30 per cent
40 per cent	40 per cent
50 per cent	50 per cent
60 per cent	60 per cent
70 per cent	70 per cent
80 per cent	80 per cent
90 per cent	90 per cent

6. Provided that the minimum amount payable to an employee to whom the SWS applies is not less than the amount prescribed in the National Minimum Wage Order. Note: the minimum amount payable is reviewed every year in July.
7. Where an employee's assessed capacity is 10 per cent, they must receive a high degree of assistance and support.

*Assessment of capacity*

8. For the purposes of establishing the percentage of the relevant minimum wage, the productive capacity of the employee will be assessed in accordance with the Supported Wage System by an approved assessor, having consulted the employer and the employee, and if the employee so desires, a union which the employee is eligible to join.
9. Assessment made under this schedule must be documented in a SWS wage assessment Agreement, and retained by the employer as a time and wages record in accordance with the FW Act.

*Lodgement of SWS wage assessment agreement*

10. All SWS wage assessment agreements under the conditions of this schedule, including the appropriate percentage of the relevant minimum wage to be paid to the employee, must be lodged by the employer with the Fair Work Commission.
11. All SWS wage assessment agreements must be agreed and signed by the employee and employer parties to the assessment. Where a union which has an interest in the agreement is not a party to the assessment, the assessment will be referred by the Fair Work Commission to the union by certified mail and the agreement will take effect unless an objection is notified to the Fair Work Commission within 10 working days.

*Review of assessment*

12. The assessment of the applicable percentage should be subject to annual review or more frequent review on the basis of a reasonable request for such a review. The process of review must be in accordance with the procedures for assessing capacity under the supported wage system.

*Other terms and conditions of employment*

13. Where an assessment has been made, the applicable percentage will apply to the relevant wage rate only. Employees covered by the provisions of the schedule will be entitled to the same terms

and conditions of employment as all other workers covered by this Agreement paid on a pro-rata basis.

*Workplace adjustment*

14. An employer wishing to employ a person under the provisions of this schedule must take reasonable steps to make changes in the workplace to enhance the employee's capacity to do the job. Changes may involve redesign of job duties, working time arrangements and work organisation in consultation with other workers in the area.

*Trial period*

15. In order for an adequate assessment of the employee's capacity to be made, an employer may employ a person under the provisions of this schedule for a Trial Period not exceeding 12 weeks, except that in some cases additional work adjustment time (not exceeding four weeks) may be needed.
16. During that Trial Period the assessment of capacity will be undertaken and the percentage of the relevant minimum wage for a continuing employment relationship will be determined.
17. The minimum amount payable to the employee during the Trial Period must be no less than the current weekly rate, as determined by the Fair Work Commission.
18. Work trials should include induction or training as appropriate to the job being trialled.
19. Where the employer and employee wish to establish a continuing employment relationship following the completion of the Trial Period, a further contract of employment will be entered into based on the outcome of assessment under clauses 8 and 9.

## Attachment E – Definitions

The following definitions apply to this Agreement:

**Agreement** means the *National Gallery of Australia Enterprise Agreement 2024 - 2026*.

**APS** means the Australian Public Service.

**Australian Defence Force Cadets** means the Australian Navy Cadets, Australian Army Cadets, or the Australian Air Force Cadets.

**Bandwidth** is the span of hours during which employees other than a shiftworker may work their ordinary hours of work. The National Gallery's bandwidth is 7.00am to 7.00pm, Monday to Friday.

**Broadband** refers to the allocation of more than one approved classification by the Director to a group of duties involving work value applying to more than one classification. A broadband encompasses the full range of work value of the classifications contained within it.

**Casual employee** means an employee engaged to work on an irregular or intermittent basis and as defined by the FW Act.

**Child** means a biological child, adopted child, foster child, stepchild, or ward.

**Classification** or classification level means the work level of the duties being performed in line with Work Level Standards.

**Compressed hours** means a working arrangement where an employee works their total ordinary hours of work over fewer days per week, fortnight, or four-week period (e.g., 4.5 days per week instead of 5 days, or a 9-day fortnight).

**De facto partner** means a person who, regardless of gender, is living in a common household with the employee in a bona fide, domestic, interdependent partnership, although not legally married to the employee.

**Delegate** means someone to whom a power or function has been delegated.

**Dependant** means the employee's partner, a child, parent or aged relative of the employee or the employee's partner, who ordinarily lives with the employee and who is substantially dependent on the employee. Dependant also includes a child of the employee who does not ordinarily live with the employee but for whom the employee provides substantial financial support.

**Director** means the Director of the National Gallery or the Director's delegate.

**Employee** means a person employed by the National Gallery under and within the meaning of the *National Gallery Act 1975* and who is covered by this Agreement (whether full-time, part-time, or casual, ongoing or non-ongoing).

**Excess employee** means:

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

**Employee representative** means a person (whether an employee or not) elected or chosen by an employee, or elected or chosen by a group of employees in a workplace, to represent the individual and/or collective views of those employees in relation to a matter under this Agreement.

**Family** means:

- a partner or former partner of the employee;
- a child, parent, grandparent, grandchild, or sibling of the employee;
- a child, parent, grandparent, grandchild, or sibling of a current or former partner of the employee;
- a member of the employee's household; or
- a person with whom the employee has a relationship of traditional kinship where there is a relationship or obligation, under customs and traditions of the community or group to which the employee belongs.

**Family and domestic violence** has the same meaning as in section 106B(2) of the FW Act.

**Full-time employee** means an employee employed to work an average of 37 hours and 30 minutes per week in accordance with this Agreement.

**GCC** means the Gallery Consultative Committee which is a committee of representatives of employees covered by this Agreement and National Gallery management representatives appointed by the Director.

**FW Act** means the *Fair Work Act 2009* as amended from time to time.

**Household member** means a person who normally lives at the employee's residence.

**LSL Act** means *Long Service Leave (Commonwealth Employees) Act 1976* as amended from time to time and any successor legislation.

**Manager** means an employee with management responsibilities for a function or work area.

**ML Act** means the *Maternity Leave (Commonwealth Employees) Act 1973* as amended from time to time and any successor legislation.

**National Gallery** means the National Gallery of Australia.

**Non-ongoing employee** means an employee engaged (either in a full-time or part-time capacity) for a specified term or for the duration of a specified task, and consistent with the FW Act.

**NES** means the National Employment Standards at Part 2-2 of the FW Act.

**Ongoing employee** means an employee engaged (either in a full-time or part-time capacity) on a continual basis.

**Ordinary hours of work** means an employee's usual hours worked in accordance with this Agreement and does not include additional hours.

**Partner** means a spouse or de facto partner.

**Part-time employee** means an employee whose average ordinary hours are less than 37 hours and 30 minutes per week in accordance with this Agreement.

**Primary caregiver** for the purposes of the parental leave clause means a pregnant employee with an entitlement under the ML Act, or an employee other than a casual employee who has primary care responsibility for a child who is born to them or who is adopted or in long-term foster care as per the clauses on adoption and long-term foster care in this Agreement.

**Potentially excess employee** means an employee who is likely to become an excess employee.

**Relevant employee** means an affected employee.

**Salary** means the employee's rate of pay (in accordance with the salary rates at Attachment A), which is considered to be salary for all purposes. Where any employee takes up the option of salary packaging on a salary sacrifice basis under the National Gallery's Salary Packaging Scheme, the employee's pre-sacrifice salary will be the salary for all purposes.

**Secondary caregiver** for the purposes of the parental leave clauses means an employee, other than a pregnant employee or casual employee, who has secondary care responsibility for a child who is born to them, or for a child who is adopted or in long-term foster care as per the clauses on adoption and long-term foster care in this Agreement.

**Settlement period** means a "four-week settlement period" (150 hours), commencing on a Thursday payday and finishing on a Wednesday.

**Shiftworker** means an employee who is rostered to perform their ordinary hours of work outside the period of 6:30am to 6:00pm, Monday to Friday, and/or on Saturdays, Sundays or public holidays for an ongoing or fixed period.

**Standard hours** of work are 8:30 am to 12:30 pm and 1:30 pm to 5:00 pm, Monday to Friday.

**Supervisor** means an employee's direct manager who is usually the person to whom an employee reports to on a day-to-day basis for work related matters.

**TOIL** means time off in lieu.

**Attachment F – Formal acceptance of this agreement and signatories (in accordance with regulation 2.06A of the *Fair Work Regulations 2009*)**

**Employer**

Nick Mitzevich

Director, National Gallery of Australia

Address: Parkes Place East, Canberra ACT 2600



Signature

Date 14/3/24

**Employee representatives**

Beth Vincent-Pietsch

Deputy National President, Community and Public Sector Union

Address: Level 2, 54-58 Foveaux St, Surry Hills NSW 2010



Signature

Date 15/03/2023

Michael Hiscox

ACT Assistant Secretary, Construction and General Division ACT Branch

Construction, Forestry and Maritime Employees Union

Address: 7-10/8 Cape St, Dickson ACT 2602

Signature

Date



**Attachment F – Formal acceptance of this agreement and signatories (in accordance with regulation 2.06A of the *Fair Work Regulations 2009*)**

**Employer**

Nick Mitzevich

Director, National Gallery of Australia

Address: Parkes Place East, Canberra ACT 2600

Signature

Date

**Employee representatives**

Beth Vincent-Pietsch

Deputy National President, Community and Public Sector Union

Address: Level 2, 54-58 Foveaux St, Surry Hills NSW 2010

Signature

Date

Michael Hiscox

ACT Assistant Secretary, Construction and General Division ACT Branch

Construction, Forestry and Maritime Employees Union

Address: 7-10/8 Cape St, Dickson ACT 2602



18/3/24

Signature

Date