



## DETERMINATION

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# OF TERMS AND CONDITIONS OF EMPLOYMENT FOR THE PRIME MINISTER'S OFFICIAL ESTABLISHMENTS CASUAL EMPLOYEES

## 2020-2023

I, Gerard Martin, being a person authorised under section 32 of the *Members of Parliament (Staff) Act 1984* ('the Act') to exercise on behalf of the Prime Minister the powers conferred on the Prime Minister by Part III of the Act, hereby determine pursuant to subsections 14(3) and 15(2) of the Act the terms and conditions of employment of persons employed under subsection 13(1) of the Act to perform duties at the Prime Minister's Official Establishments.

Prime Minister's Official Establishments Casual Employee Determination No. 2017/08 is hereby revoked.

Gerard Martin  
First Assistant Secretary  
Ministerial Support Division  
2020

## Contents

<b>SECTION 1-TECHNICAL MATTERS</b> .....	3
Title .....	3
Application and Period of Operation .....	3
Interpretation and Delegations .....	3
Employment Legislation.....	3
Family and Domestic Violence .....	4
Consultation Relating to Major Change .....	4
<i>Major Change</i> .....	4
<i>Change to regular roster or ordinary hours of work</i> .....	6
Dispute Resolution .....	6
<b>SECTION 2 - TERMS AND CONDITIONS OF EMPLOYMENT</b> .....	9
Hours of Work.....	9
Cancellation of rostered shift.....	9
Time off in lieu arrangements .....	9
Public Holidays .....	9
Representational Clothing .....	10
Security clearances .....	10
Days of Cultural or Religious Significance.....	10
<b>SECTION 3 -LEAVE</b> .....	11
Unpaid personal/carer's leave .....	11
Unpaid compassionate leave .....	11
Long service leave.....	11
Unpaid cultural and ceremonial leave .....	12
Remuneration .....	13
Junior casual pay rates.....	13
Superannuation .....	13
Recovery of Debts .....	14
<b>CLASSIFICATION AND SALARIES</b> .....	15
<b>SCHEDULE 1- CASUAL STAFF - COOKING ASSISTANTS/STAFF</b> .....	15
<b>SCHEDULE 2 - CASUAL STAFF - WAIT STAFF/KITCHEN HANDS</b> .....	16
<b>SCHEDULE 3 - CASUAL STAFF - HOUSE ATTENDANT/GARDENING ASSISTANT/FLORIST</b> .....	17
<b>SCHEDULE 4 - CASUAL STAFF - CASUAL CHEF</b> .....	18
<b>APPENDIX</b> .....	19

## SECTION 1-TECHNICAL MATTERS

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### Title

1. This Determination is called the Prime Minister's Official Establishments Casual Employees Determination No. 2020 – 2023 (the Determination).

### Application and Period of Operation

2. The Determination applies to casual employees employed as the Prime Minister's Official Establishments Employees under Part III, subsection 13(1), of the *Members of Parliament (Staff) Act 1984* (the Act) who carry out duties for the Prime Minister's Official Establishments in a position specified in Schedule 1 to 4 of this Determination (the employee). A separate Determination sets out the terms and conditions for full time and part time employees.
3. The Determination will commence on 22 November 2020 and will expire three (3) years from that date or on commencement of any further determination that covers the employment of employees to whom this Determination applies. If, for whatever reason, a further determination does not commence three (3) years after the commencement date of this Determination, the terms and conditions of employment (other than any remuneration increases) will continue as if the Determination was still in effect until such time as a new determination commences.

### Interpretation and Delegations

4. A reference to a person to whom the Determination applies means a person to whom this Determination applies in accordance with clause 2 above.
5. A reference to the employer is a reference to the Department of the Prime Minister and Cabinet.
6. A reference to the Delegate shall be read as a reference to a person authorised by the Prime Minister for the purpose of the provision in which the reference occurs. For the purposes of the Determination the First Assistant Secretary, Ministerial Support Division, PM&C, is the Delegate.
7. Unless the contrary intention appears, a reference to the Prime Minister shall be read as including a reference to a person authorised by the Prime Minister for the purpose of the provision in which the reference occurs.

### Employment Legislation

8. The Determination is not intended to operate to the exclusion of employment legislation and instruments, except where the Determination is directly based on such legislation or instruments, in which case the Determination prevails to the extent that it is capable of doing so. Various Commonwealth legislation (and

instruments under Commonwealth legislation) may apply (according to their terms) to employment under the Determination, for example:

- (a) *Fair Work Act 2009 (FWA)*
- (b) *Fair Work Regulations 2009*
- (c) *Long Service Leave (Commonwealth Employees) Act 1976 (the Long Service Act)*
- (d) *Equal Employment Opportunity (Commonwealth Authorities) Act 1987*
- (e) *Privacy Act 1988*
- (f) *Work Health and Safety Act 2011 (the WHS Act)*
- (g) *Safety, Rehabilitation and Compensation Act 1988*
- (h) *Superannuation Act 1976*
- (i) *Superannuation Act 1990*
- (j) *Superannuation Act 2005*
- (k) *Superannuation Benefits (Supervisory Mechanisms) Act 1990*
- (l) *Superannuation Guarantee (Administration) Act 1992*
- (m) *Military Rehabilitation and Compensation Act 2014*
- (n) *Parliamentary Services Act 1999*
- (o) *Public Employment (Consequential and Transitional) Amendment Act 1999*
- (p) *Social Security Act 1991, and*
- (q) *Veterans' Entitlements Act 1986*

#### **Family and Domestic Violence**

- 9. The employer is committed to supporting employees affected by family and domestic violence. The employer will provide employees with leave and support in accordance with this Determination.
- 10. Further information can be found in the Family, Domestic and Intimate Partner Violence Policy.

#### **Consultation Relating to Major Change**

- 11. This term applies if the employer:
  - (a) has made a definite decision 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
  - (b) proposes to introduce a change to the regular roster or ordinary hours of work of employees.

#### ***Major Change***

- 12. For a major change referred to in paragraph (11)(a):
  - (a) the employer must notify the relevant employees of the decision to introduce the major change; and

- (b) subclauses (13) to (18) apply.
13. The relevant employees may appoint a representative for the purposes of the procedures in this term.
14. If:
- (a) a relevant employee appoints, or relevant employees appoint, a representative for the purposes of consultation; and
  - (b) the employee or employees advise the employer of the identity of the representative; the employer must recognise the representative.
15. As soon as practicable after making its decision, the employer must:
- (a) discuss with the relevant employees:
    - (i) the introduction of the change; and
    - (ii) the effect the change is likely to have on the employees; and
    - (iii) measures the employer is taking to avert or mitigate the adverse effect of the change on the employees; and
  - (b) for the purposes of the discussion—provide, in writing, to the relevant employees:
    - (i) all relevant information about the change including the nature of the change proposed; and
    - (ii) information about the expected effects of the change on the employees; and
    - (iii) any other matters likely to affect the employees.
16. However, the employer is not required to disclose confidential or commercially sensitive information to the relevant employees.
17. The employer must give prompt and genuine consideration to matters raised about the major change by the relevant employees.
18. If a term in this Determination provides for a major change to production, program, organisation, structure or technology in relation to the enterprise of the employer, the requirements set out in paragraph (12)(a) and subclauses (13) and (15) are taken not to apply.
19. In this term, a major change is **likely to have a significant effect on employees** if it results in:
- (a) the termination of the employment of employees; or
  - (b) major change to the composition, operation or size of the employer's workforce or to the skills required of employees; or
  - (c) the elimination or diminution of job opportunities (including opportunities for promotion or tenure); or
  - (d) the alteration of hours of work; or

- (e) the need to retrain employees; or
- (f) the need to relocate employees to another workplace; or
- (g) the restructuring of jobs.

*Change to regular roster or ordinary hours of work*

20. For a change referred to in paragraph (11)(b):
- (a) the employer must notify the relevant employees of the proposed change; and
  - (b) subclauses (21) to (25) apply.
21. The relevant employees may appoint a representative for the purposes of the procedures in this term.
22. If:
- (a) a relevant employee appoints, or relevant employees appoint, a representative for the purposes of consultation; and
  - (b) the employee or employees advise the employer of the identity of the representative; the employer must recognise the representative.
23. As soon as practicable after proposing to introduce the change, the employer must:
- (a) discuss with the relevant employees the introduction of the change; and
  - (b) for the purposes of the discussion—provide to the relevant employees:
    - (i) all relevant information about the change, including the nature of the change; and
    - (ii) information about what the employer reasonably believes will be the effects of the change on the employees; and
    - (iii) information about any other matters that the employer reasonably believes are likely to affect the employees; and
  - (c) invite the relevant employees to give their views about the impact of the change (including any impact in relation to their family or caring responsibilities).
24. However, the employer is not required to disclose confidential or commercially sensitive information to the relevant employees.
25. The employer must give prompt and genuine consideration to matters raised about the change by the relevant employees.

26. In this term:

***relevant employees*** means the employees who may be affected by a change referred to in subclause (11).

**Dispute Resolution**

27. If a dispute relates to:

- (a) a matter arising under this Determination, or
- (b) the National Employment Standards,

Clauses 27 to 34 sets out procedures to settle the dispute.

28. PM&C or an employee who is a party to the dispute may appoint a representative for the purposes of clauses 27 to 34.
29. In the first instance, the parties to the dispute must try to resolve the dispute at the workplace level through discussions between the employee or employees and relevant supervisors and/or management.
30. If discussions at the workplace level do not resolve the dispute, a party to the dispute may refer the matter to the Fair Work Commission (FWC).
31. The FWC may deal with the dispute in two (2) stages:
  - (a) the FWC will first attempt to resolve the dispute as it considers appropriate, including by mediation, conciliation, expressing an opinion or making a recommendation, and
  - (b) if the FWC is unable to resolve the dispute at the first stage, the FWC may then:
    - arbitrate the dispute, and
    - make a Determination that is binding on the parties.

*Note: If the FWC arbitrates the dispute, it may also use the powers that are available to it under the FWA.*

32. A decision that the FWC makes when arbitrating a dispute is a decision for the purpose of Division 3 of Part 5.1 of the FWA. Therefore, an appeal may be made against the decision.
33. While the parties are trying to resolve the dispute using the procedures in clauses 27 to 34:
  - (a) an employee will continue to perform their work as they would normally unless they have a reasonable concern about an imminent risk to their health or safety, and
  - (b) an employee will comply with a direction given by the employer to perform other available work at the same workplace, or at another workplace, unless:
    - (i) the work is not safe
    - (ii) applicable work health and safety legislation would not permit the work to be performed
    - (iii) the work is not appropriate for the employee to perform, or
    - (iv) there are other reasonable grounds for the employee to refuse to

comply with the direction.

34. The parties to the dispute agree to be bound by a decision made by the FWC in accordance with clauses 27 to 34.



## SECTION 2 - TERMS AND CONDITIONS OF EMPLOYMENT

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### Hours of Work

35. Casual employees are employed from time-to-time to perform duties on an intermittent, irregular and ad hoc basis.

### Cancellation of rostered shift

36. Where a casual employee is given less than 24 hours' notice of the cancellation of their rostered shift:
- a) a minimum of 3 hours for staff at The Lodge and a minimum of 4 hours for staff at Kirribilli House is payable, and
  - b) when the notice is given outside of business hours (8:30 am to 5:00 pm), the hours of the cancelled rostered shift are payable.
37. This is on the basis that casual employees may have declined other work and would be unlikely to be able to take up shifts from other employers given the short timeframe.

### Time off in lieu arrangements

38. As casual employees are paid for every hour that they work, with the hourly rate incorporating a 20 per cent loading in lieu of overtime and other entitlements, employees are not entitled to time off in lieu arrangements.

### Public Holidays

39. Public holidays have been set down for the following days:
- a) New Year's Day - 1 January
  - b) Australia Day - 26 January
  - c) Good Friday
  - d) Easter Monday
  - e) ANZAC Day - 25 April
  - f) the Queen's birthday, on the day on which it is celebrated in the state or territory or a region of a state or territory
  - g) Christmas Day - 25 December
  - h) Boxing Day - 26 December, and
  - i) any other day, or part-day, declared 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.
40. If under a state or territory law, a day or part-day is substituted for one of the public holidays outlined in clause 39, then the substituted day or part-day is the public holiday.

41. A casual employee who is rostered to work on a day that falls on a public holiday and is not required to perform duties on that day will receive payment for the number of rostered hours for that day at the base rate of pay (which includes the casual loading allowance).

#### **Representational Clothing**

42. Where the employee is required to wear occupation specific clothing, or needs protective clothing, including any clothing which has embossed lettering or titles identifying the residences, these shall be provided by PM&C and shall remain the property of PM&C.

#### **Security clearances**

43. Casual employees are to undergo and maintain appropriate security clearances as required by PM&C and this is a minimum employment condition. Failure to maintain an appropriate security clearance will result in the termination of employment.
44. Casual employees must be Australian citizens.

#### **Days of Cultural or Religious Significance**

45. An employee and the Delegate may agree to substitute any public holiday referred to in clause 39 for a cultural or religious day of significance to the employee.

## SECTION 3 - LEAVE

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46. Employees engaged on a casual basis receive remuneration which includes a 20 per cent loading in lieu of paid leave (excluding long service leave) and public holidays.
47. Casual employees are not entitled to the following types of leave or payments:
- a) annual leave
  - b) subject to clause 48 below, paid personal/carer's leave
  - c) subject to clause 49 below, paid compassionate leave
  - d) paid community service leave
  - e) paid miscellaneous leave
  - f) paid maternity leave
  - g) paid supporting partner leave
  - h) paid Defence reserve leave
  - i) paid adoption leave
  - j) paid foster care leave
  - k) paid permanent care orders' leave
  - l) subject to clause 53 below, paid cultural and ceremonial leave for Aboriginal and Torres Strait Islander employees
  - m) subject to subclause 39 above, payment for public holidays on which the employee does not work and is not rostered to work
  - n) subject to Schedules 1 to 4, payment for overtime loadings
  - o) time off in lieu of overtime, and
  - p) severance or termination benefits.

### Unpaid personal/carer's leave

48. Casual employees are entitled to two (2) days of unpaid carer's leave for each occasion ('a permissible occasion') when a member of the employee's immediate family, or a member of the employee's household, requires care or support because of:
- a) a personal illness, or personal injury, affecting the member, or
  - b) an unexpected emergency affecting the member.

### Unpaid compassionate leave

49. Casual employees are entitled to three (3) days of unpaid compassionate leave for each occasion ('a permissible occasion') when a member of the employee's immediate family or household contracts or develops an illness or injury which poses a serious threat to his or her life. An employee may apply to take additional days on other forms of leave.

### Long service leave

50. Casual employees are entitled to long service leave in accordance with the Long Service Act. The minimum period of absence for which long service leave will be granted is

seven (7) calendar days or fourteen (14) calendar days at half pay.

51. The Delegate will consider applications for long service leave in light of operational requirements.
52. Employees may take long service leave in conjunction with other periods of leave. However, where long service leave is taken together with other leave, the long service leave component may only be taken before or after a block of continuous leave and cannot be broken by those other periods of leave, unless otherwise provided for in legislation.

#### Unpaid cultural and ceremonial leave

53. PM&C is committed to the employment of Aboriginal and Torres Strait Islander people and recognises the traditional roles and obligations placed on them to participate in cultural and ceremonial activities.
54. To enable employees to meet cultural obligations they may access the following leave, subject to the Delegate's approval:
  - a) up to two (2) days leave without pay each financial year to participate in activities associated with their culture or ethnicity; and
  - b) up to a total of three (3) months leave without pay each financial year to fulfil cultural obligations.

## SECTION 4 - REMUNERATION AND ALLOWANCES

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### Remuneration

55. The hourly pay rates, which include remuneration of 20 per cent loading, for each casual position shall be as specified in Schedules 1 to 4 to the determination will be raised by:

*2% on 22 May 2021;  
2% on 22 November 2021; and  
2% on 22 November 2022.*

*Note: The COVID-19 Determination has the effect of deferring the 22 November 2020 salary increase until 22 May 2021.*

### Junior casual pay rates

56. Junior casual employees are to be paid a percentage of the relevant adult pay rate as specified in Schedules 1 to 4 of the Determination. A junior is an employee under 18 years of age.

57. The pay rates for junior casual employees are:

Age	% of relevant adult pay rate
Under 16 years of age	36.8
At 16 years of age	47.3
At 17 years of age	57.8

### Superannuation

58. PM&C will make compulsory employer superannuation contributions as required by the applicable legislation and fund requirements. Contributions will be made to PM&C's default fund unless the employee formally elects a complying Super Choice fund.
59. The Secretary may choose to limit superannuation choice to complying superannuation funds that allow employee and/or employer contributions to be paid through fortnightly electronic funds transfer.
60. Where employer contributions are paid to the Public Sector Superannuation accumulation plan (PSSap) or a complying Super Choice fund the employer contribution will be 15.4 per cent of the Fortnightly Contribution Salary (FCS).
61. Employer superannuation contributions will not be paid during periods of unpaid leave that does not count as service, unless otherwise required by law.

62. Employer contributions to superannuation will not be reduced by any other contributions to superannuation made by the employee through salary sacrifice arrangements.

#### Recovery of Debts

63. A debt owed by an employee to the Commonwealth in relation to the employee's employment, including because the employee has received an overpayment of salary, allowances or other remuneration (including severance benefits), or incurred an expense outside of the entitlement, may be recovered in accordance with practices and protocols established by PM&C. Any deduction from salary must be permitted in accordance with the FWA ss324-327.
64. Recovery measures may include negotiated reduction in salary or allowances for a specified period or recouping the debt upon the termination of the employee's employment.
65. PM&C will contact the employee prior to commencing any recovery action and will consider any claims of hardship raised by the employee in any decision on the rate of recovery.

## CLASSIFICATION AND SALARIES

*Note: The COVID-19 Determination has the effect of deferring the 22 November 2020 salary increase until 22 May 2021.*

### SCHEDULE 1- CASUAL STAFF - COOKING ASSISTANTS/STAFF

Shifts worked	Six months from commencement – 2% on 22 May 2021	12 months from commencement – 2% on 22 November 2021	24 months from commencement – 2% on 22 November 2022
All of the shift occurs between 6.30 a.m. and 6.00 p.m. Monday to Friday	28.56	29.13	29.71
If any part of the shift occurs before 6.30 a.m. or after 6.00 p.m. Monday to Friday then the higher amount is to be paid for the entire shift	32.83	33.49	34.16
If any part of the shift occurs after midnight on Friday and before midnight on Saturday then the higher amount is to be paid for the entire shift	37.13	37.87	38.63
If any part of the shift occurs after midnight on Saturday and before midnight on Sunday then the higher amount is to be paid for the entire shift	49.98	50.98	52.00
If any part of the shift occurs on a public holiday then the higher amount is to be paid for the entire shift (in accordance with clause 34)	64.25	65.54	66.85

**SCHEDULE 2 - CASUAL STAFF - WAIT STAFF/KITCHEN HANDS**

<b>Shifts worked</b>	Six months from commencement – 2% on 22 May 2021	12 months from commencement – 2% on 22 November 2021	24 months from commencement – 2% on 22 November 2022
All of the shift occurs between 6.30 a .m. and 6.00 p.m. Monday to Friday	27.66	28.21	28.77
If any part of the shift occurs before 6.30 a.m. or after 6.00 p.m. Monday to Friday	31.80	32.44	33.09
If any part of the shift occurs after midnight on Friday and before midnight on Saturday	35.96	36.68	37.41
If any part of the shift occurs after midnight on Saturday and before midnight on Sunday	48.40	49.37	50.36
If any part of the shift occurs on a public holiday (in accordance with clause 34)	62.23	63.47	64.74



### SCHEDULE 3 - CASUAL STAFF - HOUSE ATTENDANT/GARDENING ASSISTANT/FLORIST

Shifts worked	Six months from commencement – 2% on 22 May 2021	12 months from commencement – 2% on 22 November 2021	24 months from commencement – 2% on 22 November 2022
All of the shift occurs between 6.30 a.m. and 6.00 p.m. Monday to Friday	29.26	29.85	30.45
If any part of the shift occurs before 6.30 a.m. or after 6.00 p.m. Monday to Friday then the higher amount is to be paid for the entire shift	33.68	34.35	35.04
If any part of the shift occurs after midnight on Friday and before midnight on Saturday then the higher amount is to be paid for the entire shift	38.08	38.84	39.62
If any part of the shift occurs after midnight on Saturday and before midnight on Sunday then the higher amount is to be paid for the entire shift	51.26	52.29	53.34
If any part of the shift occurs on a public holiday then the higher amount is to be paid for the entire shift (in accordance with clause 34)	65.90	67.22	68.56

#### SCHEDULE 4 - CASUAL STAFF - CASUAL CHEF

Shifts worked	Six months from commencement – 2% on 22 May 2021	12 months from commencement – 2% on 22 November 2021	24 months from commencement – 2% on 22 November 2022
All of the shift occurs between 6.30 a.m. and 6.00 p.m. Monday to Friday	35.71	36.42	37.15
If any part of the shift occurs before 6.30 a.m. or after 6.00 p.m. Monday to Friday then the higher amount is to be paid for the entire shift	41.06	41.88	42.71
If any part of the shift occurs after midnight on Friday and before midnight on Saturday then the higher amount is to be paid for the entire shift	46.41	47.34	48.28
If any part of the shift occurs after midnight on Saturday and before midnight on Sunday then the higher amount is to be paid for the entire shift	62.47	63.72	65.00
If any part of the shift occurs on a public holiday then the higher amount is to be paid for the entire shift (in accordance with clause 34)	80.31	81.92	83.56

## APPENDIX

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Below are terms as they appear in the Determination:

- the Act *Members of Parliament (Staff) Act 1984*
- the Determination Prime Minister's Official Establishments Casual Employees Determination No. 2020-2023
- *The FWA* *Fair Work Act 2009*
- *The Long Service Act* *Long Service Leave (Commonwealth Employees) Act 1976*
- PM&C Department of the Prime Minister and Cabinet

