



Additional hours, related allowances and TOIL

Additional hours

1. Provisions relating to ordinary and additional hours of work are outlined at clauses 37 to 43 of the *Commonwealth Members of Parliament Staff Enterprise Agreement 2024-27* (the Enterprise Agreement), and in accordance with section 62 of the *Fair Work Act 2009* (FW Act).
2. Additional hours arrangements as per clause 38.2 in the Enterprise Agreement include Nominated Traveller Allowance (NTA), Electorate Staff Allowance (ESA), Personal Staff Allowance (PSA), Time off in lieu (TOIL), and the allowance for drivers of former Prime Ministers (Driver's Allowance).
3. Employees and employing parliamentarians share responsibility for monitoring hours of work and making suitable adjustments. Employees are encouraged to record their hours and employing parliamentarians should regularly review records. The recording of hours can support conversations regarding reasonable additional hours between employees and employing Parliamentarians.
4. Given the nature of *Members of Parliament (Staff) Act 1984* (MOP(S) Act) employment (including work requirements for parliamentary sittings and committees, constituent and stakeholder engagement, media and official travel outside of business hours), employing parliamentarians and employees have flexibility as to how hours of work are performed within the additional hours arrangements in the Enterprise Agreement (with regard to the Right to Disconnect provisions within this guideline). Parliamentarians and their employees should work together to establish arrangements that are mutually suitable. Subject to an employee's particular additional hours arrangement, nothing prevents employing parliamentarians and employees from agreeing to an arrangement on a pattern of hours where additional hours are worked on some days and fewer hours on other days that takes account of varying workload requirements.

For example, an employee works longer hours on a Thursday to assist their employing parliamentarian with committee work. Noting the employee's agreed hours of work (and their particular additional hours arrangement), the employing parliamentarian and employee could agree that the employee leave early on Friday.

Reasonable additional hours

5. Employing parliamentarians and their employees should agree on the expectations and requirements when discussing or entering into any arrangement regarding additional hours of work and receipt of an allowance or accrual of TOIL in recognition of additional hours of work. An employing parliamentarian and employee should review additional hours of work regularly.
6. Consistent with their obligations to ensure the health and safety of their employees, so far as is reasonably practicable, employing parliamentarians should actively manage the additional hours of their employees, including managing additional hours during periods of higher and lower workloads, providing reasonable breaks between periods of work and being aware of signs of fatigue.
7. When assessing whether additional hours worked are reasonable, hours worked are averaged over a 12 month period. This accounts for periods of higher workloads, such as parliamentary sittings; however, in any given week expectations for additional hours should consider the safety and wellbeing of the employee.
8. Employees are encouraged to keep an accurate record of hours worked to provide to their employing parliamentarian.
9. The FW Act empowers an employee to refuse to work additional hours if those hours are unreasonable. In determining whether additional hours are unreasonable a range of factors, including the following, are taken into account:
 - a. any risks to employee health and safety;
 - b. the employee's circumstances, including family responsibilities;
 - c. the operational requirements of the workplace;
 - d. the level of compensation the employee receives that reflects an expectation of additional hours;
 - e. the notice provided by the employing parliamentarian requesting the employee to work additional hours;
 - f. the necessity for the additional hours;
 - g. the nature of the employee's role and the employee's level of responsibility;
 - h. previous additional hours already worked; or
 - i. future additional hours expected to be required.
10. Where an employee considers that they are working unreasonable additional hours, the Parliamentary Workplace Support Service (PWSS) can assist the employee, including supporting the employee to discuss their concerns with their employing parliamentarian and, if required, assisting the parliamentarian to modify their workplace arrangements.
11. Where discussions between the employing parliamentarian and employee do not resolve the situation, the employee is entitled to use the formal dispute prevention and resolution mechanism in clause 77 of the Enterprise Agreement.

Nominated Traveller Allowance

12. NTA is paid to the nominated traveller within an office in accordance with clause 40 of the Enterprise Agreement.
13. NTA is allocated to one ongoing or non-ongoing employee within each office and continues to be allocated to this employee if the employee moves to another position within an office. The nominated traveller, and thus the employee eligible to receive NTA, may only change three times within a given financial year.
14. The value of NTA is 12 points of ESA. NTA is not derived from any particular salary point and is not classification dependent. It is generally expected that an employee in receipt of NTA will work more additional hours and/or undertake more official travel outside of business hours than an employee in receipt of less than 12 ESA.
15. A nominated traveller is paid NTA automatically from when they become an office's designated nominated traveller. If a nominated traveller elects to not receive NTA in order to be eligible for TOIL, they must inform the Department of Finance (Finance) in writing.
16. Where an employee is in receipt of NTA and also receives additional ESA, the additional ESA they receive does not have any relation to the value of the NTA they receive. If an employee ceases to receive NTA, any additional ESA they receive will not cease unless specified within an ESA Allocation form.
17. NTA is paid from the date when Finance is notified by the employing parliamentarian (or their Authorised Officer) that they are the nominated traveller within an office and cannot be backdated to before the date of notification.
18. The payment of NTA to a part-time employee is not pro rata. A part time employee will receive the full value of NTA they are allocated, and NTA does not vary with an employee's part-time hours. A part-time employee should not be expected to work full-time hours due to receiving NTA.

Electorate Staff Allowance

General arrangements

19. ESA is paid in accordance with clause 41 of the Enterprise Agreement.
20. ESA may be allocated to an ongoing or non-ongoing electorate employee. The ESA allocated to an employee moves with the employee if the employee moves to another position. A new employee will only be paid ESA if they are allocated ESA.
21. The levels of ESA are not derived from any particular salary point and are not classification dependent. However, it is generally expected that an employee in receipt of a higher level of ESA would work more additional hours, and/or undertake more official travel outside of business hours, than an employee in receipt of a lower level of ESA.
22. The allocation of ESA does not mean that an employee is available for unlimited hours of work. The additional hours of work expected of an employee should be in proportion to the level of ESA paid to that employee and must not be unreasonable.
23. The payment of ESA to a part-time employee is not prorated. A part-time employee will receive the full value of the ESA they are allocated, and ESA does not vary with an

employee's part-time hours. A part-time employee should not be expected to work full-time hours due to receiving ESA.

24. It is expected that any reduction in the ESA paid to an employee will be accompanied by a reduction in the additional hours of work or official travel outside of business hours to be undertaken by that employee.
25. Where an employee is in a deferral period following an automatic termination of employment, their allocation cannot be changed. If the employee is rehired, their ESA may only be changed if there is a reallocation event under clause 41.5 of the Enterprise Agreement, if there is unallocated ESA (to increase the amount allocated to the employee) or if the employing parliamentarian and employee agree to a reduction or cessation of ESA.

Considering appropriate amounts of additional hours for electorate employees

26. In determining the appropriate amount of ESA to allocate to an employee an employing Parliamentarian must consider their expectations of the employee for the volume of additional hours as well as when those hours are worked. Additional hours worked outside of ordinary hours of work (8:00am to 6:00pm on weekdays), or where an employee is expected to be contacted outside of their standard work hours, should be recognised as having a higher value of ESA (similar to the earning of TOIL in clause 61 of this guideline), which should be considered when using the guidance table below.
27. The table below provides a general guide to assist in considering a suitable level of ESA for an employing parliamentarian to allocate to an employee for reasonable additional hours of work per week depending on their role, responsibilities, salary point, and any official travel outside of business hours, noting each employing parliamentarian will have their own office structure, staffing resources (including relief staff) and workload requirements. The hours provided in this table are for guidance purposes, indicating that an employee in receipt of that relevant level of ESA may be expected to work an amount of hours less than, or equal to, the amount of hours stipulated within the table.

*	ESA-2	ESA-4	ESA-6	ESA-8	ESA-10	ESA-12	ESA-14	ESA-16	ESA-18**
EOA	2-3	4-5	6-8	8-10	11-12	13-15	15-17	17-19	20-22
EOB	2-3	3-5	5-7	7-10	9-12	11-14	13-17	15-19	17-21
EOC	1-2	3-4	5-6	7-8	9-10	11-12	12-14	14-16	16-18

*Hours per week, averaged over a 12-month period.

**17 and 18 ESA are only available to certain employees in eligible offices (pursuant to clause 40.4 of the Enterprise Agreement).

Example 1: Ashley has commenced as an EOB in a parliamentarian's office. Ashley will be expected to work approximately 4 additional hours per day only during sitting weeks. Ashley and their employing parliamentarian agree that a level of ESA-5 is acceptable to compensate for the additional hours they will be required to work during sitting weeks spread out across the year.

Approximately 70 days requiring additional hours x 4 hours = 280 additional work hours over a 12-month period.

280 hours over 12 months = 6 hours per week on average (accounting for public holidays and expected leave).

It may be that ESA-4, ESA-5 or ESA-6 is appropriate depending on how the office operates, including how much ESA other employees are receiving or the number of relief staff that might be available.

Example 2: Hideaki and Rylie are both full-time employees at the EOA 3 salary classification, and both receive ESA-6 in recognition of expected additional hours outside of their regular work pattern. With the agreement of their employing parliamentarian, and in an arrangement that suits the operational requirements of the office, they work additional hours during different times of the week.

Hideaki works 6 additional hours per week, but performs this additional work within the range of ordinary hours of 8:00am to 6:00pm on weekdays. Rylie works their additional hours on weekends, using this time to liaise with constituents, and works 4 additional hours every weekend for this purpose.

Consultation on the allocation or re-allocation of ESA

28. Before the allocation, or any reallocation of ESA to an employee or employees, the employing parliamentarian must consult with the affected employee or employees. Consultation on working hours ensures expectations are clear and there can be consideration for factors that may affect working hours. Consultation must be in accordance with clause 9 of the Enterprise Agreement.

Allocation of ESA

29. With the exception of the nominated traveller, employing parliamentarians have the flexibility to allocate one of 16 levels of ESA to each employee in their office, subject to an individual cap set out at clause 40.4 of the Enterprise Agreement. The levels of ESA are detailed in Attachment D to the Enterprise Agreement.
30. An employing Parliamentarian with one electorate office can allocate up to a total of 46 levels of ESA to their employees. An employing parliamentarian with two electorate offices can allocate up to 50 levels of ESA to their employees. An employing parliamentarian with three electorate offices can allocate up to 54 levels of ESA to their employees. Each office may also have a nominated traveller who receives NTA valued at 12 ESA, which is separate to an office's available ESA allocation. Where an employing Parliamentarian is eligible for reimbursement of a privately-leased office (known as a satellite office), they can allocate two further levels of ESA.
31. An employing parliamentarian may choose not to allocate ESA to an employee if the employee is not required to work significant additional hours. A parliamentarian may also choose to allocate a lower ESA level where a higher ESA level could be allocated. There is

no requirement to allocate all available ESA.

32. An employee may elect not to receive NTA or ESA by indicating this on the ESA allocation form to be signed by both the employee and the employing parliamentarian. Where an employee elects not to receive ESA, they are entitled to TOIL under clause 42 of the Enterprise Agreement.
33. An employing parliamentarian and an employee may agree at any time to reduce the amount of ESA an employee receives or that the employee no longer receive ESA. The reduction or cessation will be effective from the date that this advice is received by Finance. The employee's agreement to the reduction must be supplied in writing before the reduction can be made effective.
34. Where an electorate employee transfers (temporarily or permanently) from one parliamentarian's office to another parliamentarian's office they will receive the level of ESA allocated by the second employing parliamentarian (if any).
35. All ESA allocations and re-allocations should be advised to Finance on an **Electorate Staff Allocation Form**. Exceptions to this requirement are where the ESA is allocated due to the employee becoming a nominated traveller, or if the ESA is being allocated on commencement of a new employment agreement. If ESA is allocated to an employee on commencement of an employment agreement, the allocation can be advised to Finance within the relevant section of the employment agreement form.
36. The level of ESA an employee receives is stated on their pay slip. For an employee in receipt of NTA, this will display as 12 ESA on their pay slip.

Allocation of ESA by a re-elected parliamentarian

37. A re-elected parliamentarian will have six weeks from the commencement of their new term to notify Finance in writing of an ESA re-allocation. If the six-week timeframe is met, the re-allocation of ESA will commence from the date that their new term commences. Where the re-allocation of ESA disadvantages an employee, the re-allocation of ESA will be effective from the date Finance receives the ESA allocation advice.

ESA allocation may be increased or mutually decreased at any time

38. An employing parliamentarian may allocate any unallocated ESA to an employee at any time in accordance with clause 41.8 of the Enterprise Agreement.

For example, an employing parliamentarian's electorate office has the following ESA allocations in place, with Jenny being the office's nominated traveller:

	EOA - Sue	EOA - Keith	EOB - Emily	EOB - James	EOC - Jenny
ESA Level	4	7	10	14	12

As the parliamentarian has not allocated all of the ESA levels (allocated ESA = 35 of 46 for a five position office), the parliamentarian may increase the level of ESA allocated by a maximum of 11 levels. Following discussions with Sue, the Parliamentarian chooses to increase Sue's ESA by two levels and keep nine levels of ESA in reserve.

	EOA - Sue	EOA - Keith	EOB - Emily	EOB - James	EOC - Jenny
ESA Level	6	7	10	14	12

39. An employee and employing parliamentarian may agree to decrease the ESA allocated to an employee at any time under clause 41.9. Changes to ESA will be effective from the date Finance receives the ESA allocation advice. The employee must provide their written agreement as evidence they agree to the reduction. A reduction or cessation of an employee's ESA cannot be backdated.
40. An increase in ESA may be used in conjunction with clause 41.9 (e.g. decreasing the ESA allocated to one employee to then increase the ESA allocated to other employees).

Allocation during a temporary transfer – internal to a personal employee position

41. Where an electorate employee undertakes a temporary transfer - internal to a personal employee position (i.e., receives Higher Duties Allowance), they cease to receive any ESA during the transfer period and may receive Personal Staff Allowance instead.
42. During this period, the employing parliamentarian may temporarily allocate the employee's ESA to other electorate employees within the office for the period of the temporary transfer. Upon the cessation of the temporary transfer, the ESA allocations will revert to the allocations prior to the temporary transfer.
43. Where a re-allocation event under clause 41.5 occurs during the period of the temporary transfer, the employing parliamentarian can re-allocate ESA as if the temporary transfer is not in effect and can then temporarily re-allocate the ESA of the employee on temporary transfer per clause 43.

For example, Stephen received ESA-7 before undertaking a temporary transfer to a personal position. Within the first two weeks of the transfer, his employing parliamentarian re-allocated Stephen's ESA to another employee in the office. While Stephen was on transfer, a new financial year commenced, which was used as a trigger event to re-allocate the ESA-7 to two different employees within the office. When Stephen ends his temporary transfer, the ESA-7 is allocated back to him upon the return to his substantive position.

Re-allocation of ESA – commencement of the financial year

44. The re-allocation of ESA under clause 41.5(b) – commencement of the financial year – should be notified to Finance in writing prior to 1 July for changes to ESA to be effective from 1 July. Where changes are intended to be effective from 1 July, it is recommended that Finance is notified prior to this date with employees consulted in advance. Where Finance is notified more than two weeks after 1 July the re-allocation of ESA will not be made. Where the re-allocation of ESA disadvantages an employee, the re-allocation of ESA will be effective from the date Finance receives the ESA allocation advice.

Re-allocation of ESA – office restructure, or a period of leave or temporary transfer of three months or longer

45. The re-allocation of ESA as a result of an event described at clause 41.5(c) – office restructure – or 41.5(d) – commencing or ceasing a temporary transfer or leave of three months or longer – should be notified to Finance in writing prior to the date that the trigger event occurs. Changes to ESA will be effective from the date of the trigger event. Where Finance is notified more than two weeks after the trigger event the re-allocation of ESA will not be made. Where the re-allocation of ESA disadvantages an employee, the re-allocation of ESA will be effective from the date Finance receives the ESA allocation advice.
46. Where an employing parliamentarian re-allocates duties without changing the classification of Electorate Officer positions in the office, ESA cannot be re-allocated.
47. Employing parliamentarians should not restructure their office for the sole purpose of reallocating ESA.
48. Where an employee is on approved leave for three months or longer, the level of ESA the employee was receiving immediately before the leave commenced will be maintained for the period of leave (commensurate with leave at reduced pay). While on leave, the levels of ESA the employee is receiving do not count towards the office cap. ESA may be re-allocated within the office on the employee's commencement of leave and on their return to work.

For example, where an employee commences a period of 12 months parental leave, and uses 18 weeks of paid parental leave, the 18 weeks of paid leave will include the level of ESA that the employee was receiving immediately prior to commencing leave. The employing parliamentarian may re-allocate the levels of ESA in the office within two weeks of the employee commencing parental leave and again within two weeks of the employee returning to work.

49. Where an employee returns from leave of three months or longer and the employing parliamentarian does not reallocate ESA in the office under clause 41.5(d), the returning employee will have their ESA reduced if necessary to bring the total allocated ESA in the office to within the office cap.
50. Where an employee is temporarily transferred to another parliamentarian's office for three months or longer, ESA may be re-allocated within the first employing parliamentarian's office on the employee's commencement of the temporary transfer and on their return. The first employing parliamentarian may re-allocate the levels of ESA in the office within two weeks of the employee commencing their temporary transfer and again within two weeks of the employee returning to the office.
51. Where a temporary transfer or a period of approved leave is extended so that the total period of the transfer or leave becomes more than three months, the employing parliamentarian may re-allocate the levels of ESA in the office. Eligibility to re-allocate ESA will be effective from the date of the extension of the temporary transfer or period of leave (i.e., not backdated to the initial commencement of the leave or transfer period). ESA may not be re-allocated as a result of any subsequent extension of temporary transfer or leave.
52. Where an employee is on leave for less than three months, the level of ESA that they receive will be subject to change in accordance with clause 41 of the Enterprise Agreement.

Re-allocation of ESA by Ministers and Parliamentary Secretaries

53. An employing parliamentarian who is appointed as, or ceases to be, a Minister or Parliamentary Secretary, will have six weeks from their appointment, or cessation, to notify Finance in writing of an ESA re-allocation. If the six-week timeframe is met, the re-allocation will be effective from the date of the appointment or cessation. Where the re-allocation of ESA disadvantages an employee, the re-allocation of ESA will be effective from the date Finance receives the ESA allocation advice.
54. If an employing parliamentarian who is appointed as, or ceases to be, a Minister or Parliamentary Secretary does not meet the above timeframe, the re-allocation of ESA will not be made.
55. A change in portfolio, or a Parliamentary Secretary being appointed as a Minister or vice versa, is not considered as a parliamentarian being appointed as, or ceasing to be, a Minister or Parliamentary Secretary under clause 41.5(e) of the Enterprise Agreement.

Personal Staff Allowance and allowance for drivers of former Prime Ministers

56. Ongoing and non-ongoing personal employees are paid Personal Staff Allowance (PSA) in recognition of reasonable additional hours of work. The rate of PSA payable is classification dependent. PSA is not commensurate with the number of additional hours an employee is expected to work. PSA is paid pro rata for part-time employees.
57. The additional hours that a part-time employee in receipt of PSA is expected to work should be considered in regard to the prorated amount of PSA that they receive.
58. Ongoing and non-ongoing personal employees who are drivers of former Prime Ministers are paid Driver's Allowance as compensation for reasonable additional hours of work. Driver's Allowance is paid specifically to drivers at the Adviser 1 (non-Ministerial) classification. Driver's Allowance is paid pro rata for part-time employees. A driver is not eligible for PSA.

Time off in lieu

59. An employee may elect not to receive ESA or PSA and be entitled to time off in lieu (TOIL) in recognition of additional hours of work under clause 42 of the Enterprise Agreement. Drivers of former Prime Ministers are not entitled to TOIL.
60. TOIL is a method to recognise the additional hours worked by employees in performing their duties. It enables employees and employing parliamentarians to vary working hours, patterns and arrangements to provide maximum flexibility with benefit to the employee and their employing parliamentarian.
61. TOIL may accrue if agreed by the employing parliamentarian and accrued TOIL may be taken at a time agreed between the parliamentarian and employee. In determining the amount of TOIL accruing to an employee, an employing parliamentarian must take into account when the employee is working. An employee accrues more hours of TOIL working on weekends or public holidays than if those same hours were worked on a weekday. Time spent travelling on official business as directed beyond ordinary hours of work counts as additional hours and can be accrued as TOIL.
62. Where an employing parliamentarian requires an employee not in receipt of NTA, ESA or PSA to work outside of ordinary hours of work, they should consider accommodating future arrangements for the employee to claim the accrued TOIL in relation to these additional hours worked.
63. Employing parliamentarians and employees should actively manage TOIL balances and identify periods where TOIL can be used.
64. Prior to an employee ceasing employment, employing parliamentarians should take particular care to ensure opportunities are available to use accrued TOIL during a period of notice or a deferral period. Accrued TOIL is not paid out on cessation and does not carry over to employment with a different parliamentarian.

Right to disconnect

65. The FW Act provides that employees have a right to refuse contact from the workplace outside of ordinary working hours, unless that refusal is considered unreasonable.
66. This right to disconnect applies to all MOP(S) Act employees. It enables employees to refuse to respond to work-related contact from third parties, including: their employing parliamentarian, colleagues, stakeholders, employees from other agencies or offices, and members of the public.
67. Managers and employees should discuss and set expectations on what is considered appropriate out-of-hours contact, relevant to the workplace, the particular role of the employee, and the employee's personal circumstances. This includes preferences over the form of contact (e.g. text message, email, phone call) and any time parameters that are unsuitable and may cause a greater level of disruption for the employee. Regular discussions should be had between managers and employees to set the expectations for contact outside of working hours.

Considerations for employing parliamentarians and managers when making contact

68. The right to disconnect does not prohibit an employing parliamentarian or manager from making or attempting contact with an employee. However, all relevant factors should be considered, and judgement should be exercised, to determine beforehand whether it is required to contact an employee outside of their working hours.

Some factors to consider include:

- a. whether contacting the employee is necessary or urgent;
- b. how the employee is being contacted (by text, email, phone call);
- c. the employee's role or level of responsibility; or
- d. the employee's personal circumstances.

69. The reason for the attempted contact is relevant when determining whether an employee refusing to accept or respond to contact is unreasonable when outside of their working hours. Generally, it may be reasonable for a manager to contact an employee outside of working hours and expect a response if the contact is necessary or relates to an emergency.

Some examples where it may be reasonable to contact an employee include:

- a. to inform the employee of hazards that may affect them from safely attending the workplace; or
- b. to recall them to duty during a crisis where the employee's role is critical.

Contact may also be appropriate to inform on workforce matters or obligations:

- c. notifying of changes to a roster;
- d. conducting welfare checks on an employee travelling or working outside of ordinary hours; or
- e. confirming an employee's return to work arrangements.

70. However, it may not be appropriate for a response to be expected from an employee when the contact has been made over a non-urgent matter. When an employee has shared information about their personal circumstances which may affect their ability to respond outside of working hours, this should be considered by a manager in relation to out-of-hours contact.

These circumstances may include:

- a. family or caring responsibilities;
- b. travelling and commuting and its effect on contact availability;
- c. medical appointments;
- d. cultural or religious commitments;
- e. study or training commitments; or
- f. periods of leave.

Considerations for an employee and their right to disconnect

71. An employee's role and responsibilities within the workplace, and their own personal circumstances, are all relevant factors in determining whether an employee's refusal to monitor, read, or respond to contact outside of working hours is deemed unreasonable. It is encouraged that an employee informs their manager of any matters that may affect their ability to be contacted outside of working hours.

72. There may be an expectation that an employee in receipt of PSA, NTA or ESA are

required to be contactable outside of their ordinary working hours in comparison to other staff. Regardless of whether an employee receives these allowances, this does not preclude them from exercising a reasonable refusal to monitor, read or respond to contact outside of their working hours. To facilitate such arrangements, the time parameters for when out-of-hours work or travel may be undertaken should be discussed between the employee and their employing parliamentarian or manager.

73. Discussions regarding contact outside of working hours assist in setting expectations between managers and employees. These discussions may take place during recruitment, performance reviews, one-on-one catch ups, team meetings, and planning sessions.
74. An employee's refusal to engage in contact outside of working hours may be considered unreasonable. In determining whether a refusal is unreasonable, the following factors should be considered:
- a. the reason for the contact or attempted contact;
 - b. the method of contact and the disruption it may cause the employee;
 - c. whether the employee is compensated to work outside of their ordinary hours of duty, or to be available during the period of contact;
 - d. the employee's role and their level of responsibility within the office;
 - e. the employee's personal circumstances or commitments; or
 - f. any other relevant factors, including the employee's behaviour.

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1.0	04/09/2025	HR Policy	Assistant Secretary