

**Determination under subsection 24(3)—** **Non-SES employees to be moved to the Department of Home Affairs by determination under paragraph 72(1)(a) of the *Public Service Act 1999***

made under subsection 24(3) of the *Public Service Act 1999*

I, Michaelia Cash, Minister Assisting the Prime Minister for the Public Service, being of the opinion that it is desirable to do so because of exceptional circumstances, hereby determine pursuant to subsection 24(3) of the *Public Service Act 1999* the terms and conditions of employment of employees to whom this Determination applies.

1. **Citation**
	1. This Determination is the *Home Affairs Non-SES Moving Employees Determination 2017*.
2. **Period of operation**
	1. This Determination takes effect on and from the start of the day after registration.
	2. This Determination will remain in effect until a new Workplace Determination, made by the Fair Work Commission, comes into operation in the Department of Home Affairs.
3. **Definitions**
	1. In this Determination:
		1. ***Moving AGD Employee*** means a Moving Employee who, immediately before being moved to the Department of Home Affairs was employed in the Attorney-General’s Department.
		2. ***Moving DIRD Employee*** means a Moving Employee who, immediately before being moved to the Department of Home Affairs was employed in the Department of Infrastructure and Regional Development.
		3. ***Moving DSS Employee*** means a Moving Employee who, immediately before being moved to the Department of Home Affairs was employed in the Department of Social Services.
		4. ***Moving PM&C Employee*** means a Moving Employee who, immediately before being moved to the Department of Home Affairs was employed in the Department of the Prime Minister and Cabinet.
		5. ***Moving Employee*** means an APS employee (other than an SES employee) who is moved from:
			1. the Attorney-General’s Department; or
			2. the Department of Infrastructure and Regional Development; or
			3. the Department of the Prime Minister and Cabinet; or
			4. the Department of Social Services;

to the Department of Home Affairs by determination under paragraph 72(1)(a) of the *Public Service Act 1999*.

1. **Application of Determination**
	1. This Determination applies to a Moving Employee.
	2. This Determination ceases to apply to an employee if:
		1. the employee ceases to be employed in the Department of Home Affairs; or
		2. the employee is promoted to a different position in the Department of Home Affairs.
2. **TERMS AND CONDITIONS BEFORE 8 february 2018**
	1. Before 8 February 2018, the terms and conditions of employment (including remuneration) of:
		1. a Moving AGD Employee shall be the terms and conditions contained in the *Attorney-General’s Department Enterprise Agreement 2016* (including the undertaking dated 27 January 2017 attached to decision [2017] FWCA 613);
		2. a Moving DIRD Employee shall be the terms and conditions contained in the *Department of Infrastructure and Regional Development Enterprise Agreement 2016*;
		3. a Moving DSS Employee shall be the terms and conditions contained in the *Department of Social Services Enterprise Agreement 2015 to 2018*;
		4. a Moving PM&C Employee shall be the terms and conditions contained in the *Department of the Prime Minister and Cabinet Enterprise Agreement 2017-2020*;

except that any reference in the terms and conditions to the Attorney-General’s Department, the Department of Infrastructure and Regional Development, the Department of the Prime Minister and Cabinet or the Department of Social Services is substituted with a reference to the Department of Home Affairs.

* 1. Where the terms and conditions in clause 5.1 refer to policies, guidelines and procedures (however described), any such policies, guidelines or procedures:
		1. will continue to apply to the Moving Employees in their current form, except to the extent that a policy, guideline or procedure is not capable of meaningful operation because of the movement of the employees to the Department of Home Affairs; and
		2. do not form part of this Determination and this Determination prevails over any policies, guidelines or procedures to the extent of any inconsistency.

*Department of Home Affairs Conditions not to apply*

* 1. The terms and conditions of employment set out in clause 5.1 apply instead of:
		1. any other enterprise agreement; and
		2. the *Australian Public Service Enterprise Award 2015*; and
		3. any annual salary prescribed by subregulation 8.1(2) of the *Public Service Regulations 1999*.
1. TRANSITION TO PREVAILING ENTERPRISE AGREEMENT ON 8 FEBRUARY 2018
	1. On 8 February 2018, all Moving Employees, excluding Moving AGD Employees, will become subject to the prevailing enterprise agreement in the Department of Home Affairs and this Determination will cease to apply to those Moving Employees.
	2. On 8 February 2018, Clauses 5.1 to 5.3 will no longer apply to a Moving AGD Employee. A Moving AGD Employee will become subject to the prevailing enterprise agreement in the Department of Home Affairs but, will retain the salary that applied to them on 7 February 2018.
2. Terms and Conditions may be Enhanced
	1. It is not inconsistent with this Determination for an Agency Head to make a determination pursuant to subsection 24(1) of the *Public Service Act 1999* supplementing the terms and conditions of employment that apply to an employee by operation of this Determination.

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Senator the Hon Michaelia Cash
Minister Assisting the Prime Minister for the Public Service

***13 December 2017***