



Public Service (Terms and Conditions of Employment) (Services Australia—Non-SES Employees) Determination 2020

I, Greg Hunt, Minister Assisting the Prime Minister for the Public Service and Cabinet, make the following determination.

Dated 30 January 2020

Greg Hunt
Minister Assisting the Prime Minister for the Public Service and Cabinet

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Part 1—Preliminary

1 Name

This instrument is the *Public Service (Terms and Conditions of Employment) (Services Australia—Non-SES Employees) Determination 2020*.

2 Commencement

- (1) Each provision of this instrument specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. The whole of this instrument	1 February 2020.	1 February 2020

Note: This table relates only to the provisions of this instrument as originally made. It will not be amended to deal with any later amendments of this instrument.

- (2) Any information in column 3 of the table is not part of this instrument. Information may be inserted in this column, or information in it may be edited, in any published version of this instrument.

3 Authority

This instrument is made under subsection 24(3) of the *Public Service Act 1999*.

4 Definitions

In this instrument:

Act means the *Public Service Act 1999*.

DHS Agreement means the *Department of Human Services Agreement 2017-2020*, as in force immediately before the commencement of this instrument.

Note: The DHS Agreement could in 2020 be viewed on the Fair Work Commission's website (<https://www.fwc.gov.au>).

DHS Medical Officers Agreement means the *Department of Human Services Medical Officers Agreement 2018-2021*, as in force immediately before the commencement of this instrument.

Note: The DHS Medical Officers Agreement could in 2020 be viewed on the Fair Work Commission's website (<https://www.fwc.gov.au>).

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Services Australia means Services Australia, established as an Executive Agency under section 65 of the *Public Service Act 1999*.

Part 2—Non-medical APS employees

5 Application of this Part to non-medical APS employees

This Part applies to an APS employee in Services Australia, other than:

- (a) an SES employee; or
- (b) an employee whose classification under the Classification Rules is one of the following:
 - (i) Medical Officer Class 2;
 - (ii) Medical Officer Class 3;
 - (iii) Medical Officer Class 4;
 - (iv) Medical Officer Class 5.

6 When this Part ceases to apply to non-medical APS employees

This Part ceases to apply to an APS employee if:

- (a) an enterprise agreement starts to apply to the employee (for the purposes of the *Fair Work Act 2009*); or
- (b) a workplace determination is made that covers the employee (for the purposes of the *Fair Work Act 2009*).

Note: A workplace determination operates from the day on which it is made (see section 276 of the *Fair Work Act 2009*).

7 Terms and conditions of employment—non-medical APS employees

- (1) The terms and conditions of employment applying to an APS employee to whom this Part applies are the terms and conditions of employment set out in the DHS Agreement, as that Agreement has effect under this section.
- (2) The DHS Agreement has effect as if:
 - (a) a reference in that Agreement to the Secretary of the Department of Human Services were a reference to the Chief Executive Officer of Services Australia; and
 - (b) a reference in that Agreement to an employee of the Department of Human Services covered by that Agreement were a reference to an APS employee to whom this Part applies; and
 - (c) subclause A3.3 of that Agreement (which specifies the nominal expiry date of that Agreement) were omitted; and
 - (d) an individual flexibility arrangement for an APS employee to whom this Part applies that is taken, under section 202 of the *Fair Work Act 2009*, to be a term of that Agreement (in relation to the employee) did not provide that the individual flexibility arrangement ceases if that Agreement ceases to apply to the employee.
- (3) If a determination under subsection 24(1) of the Act provides for an increased amount of salary for a classification set out in Schedule 2 to the DHS Agreement,

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the amount of salary set out in Schedule 2 to the DHS Agreement for that classification ceases to have effect on the commencement of that determination.

- (4) If a determination under subsection 24(1) of the Act provides for an increased amount of an allowance provided for in the DHS Agreement, the amount of that allowance set out in the DHS Agreement ceases to have effect on the commencement of that determination.

8 Procedure for dealing with disputes

For the avoidance of doubt, clause A10 (which provides for a dispute resolution procedure) of the DHS Agreement, as that Agreement has effect under section 7 of this instrument, is:

- (a) a term or condition of employment applying to an APS employee to whom this Part applies; and
- (b) for the purposes of paragraph 738(d) of the *Fair Work Act 2009*, a term that provides a procedure for dealing with disputes arising under this instrument.

9 Superannuation salary for PSSap members

For the purposes of paragraph 2.2.3(fa) of the Schedule to the *Superannuation (PSSAP) Trust Deed*, the superannuation salary of an APS employee to whom this Part applies, and who is a PSSap member, is the employee's ordinary time earnings.

Part 3—Medical APS employees

10 Application of this Part to medical APS employees

This Part applies to an APS employee in Services Australia whose classification under the Classification Rules is one of the following:

- (a) Medical Officer Class 2;
- (b) Medical Officer Class 3;
- (c) Medical Officer Class 4.

11 When this Part ceases to apply to medical APS employees

This Part ceases to apply to an APS employee if:

- (a) an enterprise agreement starts to apply to the employee (for the purposes of the *Fair Work Act 2009*); or
- (b) a workplace determination is made that covers the employee (for the purposes of the *Fair Work Act 2009*).

Note: A workplace determination operates from the day on which it is made (see section 276 of the *Fair Work Act 2009*).

12 Terms and conditions of employment—medical APS employees

- (1) The terms and conditions of employment applying to an APS employee to whom this Part applies are the terms and conditions of employment set out in the DHS Medical Officers Agreement, as that Agreement has effect under this section
- (2) The DHS Medical Officers Agreement has effect as if:
 - (a) a reference in that Agreement to the Secretary of the Department of Human Services were a reference to the Chief Executive Officer of Services Australia; and
 - (b) a reference in that Agreement to an employee of the Department of Human Services covered by that Agreement were a reference to an APS employee to whom this Part applies; and
 - (c) subclause A3.3 of that Agreement (which specifies the nominal expiry date of that Agreement) were omitted; and
 - (d) an individual flexibility arrangement for an APS employee to whom this Part applies that is taken, under section 202 of the *Fair Work Act 2009*, to be a term of that Agreement (in relation to the employee) did not provide that the individual flexibility arrangement ceases if that Agreement ceases to apply to the employee.
- (3) If a determination under subsection 24(1) of the Act provides for an increased amount of salary for a classification set out in Schedule 2 to the DHS Medical Officers Agreement, the amount of salary set out in Schedule 2 to the DHS Medical Officers Agreement for that classification ceases to have effect on the commencement of that determination.

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- (4) If a determination under subsection 24(1) of the Act provides for an increased amount of an allowance provided for in the DHS Medical Officers Agreement, the amount of that allowance set out in the DHS Medical Officers Agreement ceases to have effect on the commencement of that determination.

13 Procedure for dealing with disputes

For the avoidance of doubt, clause A10 (which provides for a dispute resolution procedure) of the DHS Medical Officers Agreement, as that Agreement has effect under section 12 of this instrument, is:

- (a) a term or condition of employment applying to an APS employee to whom this Part applies; and
- (b) for the purposes of paragraph 738(d) of the *Fair Work Act 2009*, a term that provides a procedure for dealing with disputes arising under this instrument.

14 Superannuation salary for PSSap members

For the purposes of paragraph 2.2.3(fa) of the Schedule to the *Superannuation (PSSAP) Trust Deed*, the superannuation salary of an APS employee to whom this Part applies, and who is a PSSap member, is the employee's ordinary time earnings.