



Public Service (Terms and Conditions of Employment) (General wage increase deferrals during the COVID-19 pandemic) Determination 2020

I, Ben Morton, Assistant Minister to the Prime Minister and Cabinet, and Parliamentary Secretary to the Prime Minister, make the following determination.

Dated 9 April 2020

Ben Morton
Assistant Minister to the Prime Minister and Cabinet
Parliamentary Secretary to the Prime Minister

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1 Name

This instrument is the *Public Service (Terms and Conditions of Employment) (General wage increase deferrals during the COVID-19 pandemic) 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	14 April 2020.	14 April 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Note: This table relates only to the provisions of this instrument as originally made.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

Note: A number of expressions used in this instrument are defined in the Act, including the following:

- (a) enterprise agreement;
- (b) non-SES employee.

In this instrument:

Act means the *Public Service Act 1999*.

individual flexibility arrangement has the same meaning as in the *Fair Work Act 2009*.

non-SES employee's classification has the meaning given by section 5.

qualifying period means the 12-month period starting on 14 April 2020.

5 Application of this instrument to certain non-SES employees

This instrument applies to a non-SES employee who is of a classification (the *non-SES employee's classification*) that is not any of the following classifications:

- (a) Antarctic Medical Practitioner Level 3;
- (b) Chief of Division Grade 1, 2 or 3;
- (c) Chief Research Scientist Grade 1 or 2;
- (d) Medical Officer Class 5 or 6;
- (e) DAFF Band 4.

6 Terms and conditions of employment—deferral for 6 months of certain increases in salary and allowances

The terms and conditions of employment applying to the non-SES employee include the condition that any increase that:

- (a) is of a kind covered by subsection 7(1); and
- (b) apart from this instrument, would take effect on a day in the qualifying period;

instead takes effect as soon as practicable after the end of the 6-month period starting on that day.

Example 1: If the increase was a lump sum, the lump sum will likely be paid on the first pay day after the 6-month period.

Example 2: If the increase was an ongoing increase to a periodic payment, the first of those payments that includes the increase will likely be the first one after the 6-month period. That first payment will not include any lump sum equal to back pay for the 6-month period.

7 Kinds of increases in salary and allowances that will be deferred etc.

Kinds of increases in salary and allowances that will be deferred

- (1) For the purposes of paragraph 6(a), the kinds of increases are as follows:
 - (a) an increase in the salary for the non-SES employee's classification;
 - (b) an increase in an allowance for the non-SES employee's classification that takes effect on the same day, and at the same rate, as an increase in the salary for the non-SES employee's classification;
 - (c) an increase in the non-SES employee's salary that takes effect under an individual flexibility arrangement agreed with the non-SES employee that, because of paragraph 202(2)(b) of the *Fair Work Act 2009*, is a term of an enterprise agreement that applies to the non-SES employee;
 - (d) an increase in an allowance for the non-SES employee that:
 - (i) takes effect under an individual flexibility arrangement agreed with the non-SES employee that, because of paragraph 202(2)(b) of the *Fair Work Act 2009*, is a term of an enterprise agreement that applies to the non-SES employee; and
 - (ii) takes effect on the same day, and at the same rate, as an increase in the non-SES employee's salary under that enterprise agreement.

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- (2) To avoid doubt, the kinds of individual flexibility arrangements covered by paragraphs (1)(c) and (d) include each of the following:
- (a) an individual flexibility arrangement agreed to before the qualifying period;
 - (b) an individual flexibility arrangement for which paragraph 7(2)(d) of the *Public Service (Terms and Conditions of Employment) (Services Australia—Non-SES Employees) Determination 2020* applies.

Note: An increase under these individual flexibility arrangements will only be covered if the increase would (apart from this instrument) take effect during the qualifying period.

Kinds of increases in salary and allowances that will not be deferred

- (3) Subsection (1) does not cover any of the following kinds of increases:
- (a) an increase in the non-SES employee's salary that takes effect because of a variation of a rate of salary set out in an award;
 - (b) an increase in the non-SES employee's salary or allowances that takes effect because the non-SES employee starts performing duties on a temporary or ongoing basis:
 - (i) at a higher classification; or
 - (ii) at a classification mentioned in any of paragraphs 5(a) to (e);
 - (c) an increase in the non-SES employee's salary or allowances that takes effect because of a performance-based progression within the non-SES employee's classification;
 - (d) an increase in the non-SES employee's salary or allowances that takes effect because of the completion of a training program or the obtaining of a qualification.