Wages Policy

The new Wages Policy applies from 1 January 2022. It revokes and replaces the previous Wages Policy. The new Wages Policy applies to bargaining for and making enterprise agreements which will replace:

- current enterprise agreements that reach nominal expiry date on 1 January 2022 or later, and
- current enterprise agreements that reach their nominal expiry date before 1 January 2022 where the parties have not reached agreement on a replacement enterprise agreement consistent with the Transitional Provisions at the end of this policy.

Primary Pathway

The primary pathway for agreement-making under Government's new Wages Policy has three pillars.

Pillar 1: Wages

Increases in wages and conditions will be capped at a rate of growth of 1.5 per cent per annum over the life of the agreement. In practice this means employee wages and conditions will be allowed to grow at this rate.

Pillar 2: Best Practice Employment Commitment

All public sector agencies will be required to make a Best Practice Employment Commitment which will outline measures to operationalise elements of the Government's Public Sector Priorities that reflect good practice within Government and can be implemented operationally or without significant costs.

Pillar 3: Additional strategic changes

Additional changes to allowances and other conditions (not general wages) will be capped at 0.5 per cent per annum of the salary base and will only be allowed if Government agrees that the changes will address key operational or strategic priorities for the agency, and/or one or more of the Public Sector Priorities.

In addition, Wages Policy requires that:

- all agreements must be fiscally sustainable and fully funded from capped indexation, capped revenue and/or appropriate cost offsets
- revenue generating entities can only use revenue capped at the rate of indexation to fund agreement outcomes
- enterprise agreements must not contain retrospective payments. This means that the first pay increase in any agreement must be forward looking and cannot be prior to the date the agreement has been submitted to the Government for approval
- legislated increases to the superannuation guarantee rate are excluded from the cap on wages and conditions

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- public sector agencies should seek to achieve four-year agreements subject to operational considerations
- public sector agencies must seek pre-approval from Government to make any offer above the capped growth rate

Further information about Wages Policy Pillars 2 and 3 is outlined below.

Best Practice Employment Commitment

Several of the Government's key public sector reforms such as improving gender equity, ensuring secure employment and access to flexible working arrangements can be enhanced through changes to operational practices and policies.

Public sector agencies are required to identify and action reforms around public sector employment through a Best Practice Employment Commitment (BPEC) to be finalised alongside the enterprise agreement.

The BPEC must include measures for implementing best practice employment practices, to operationalise elements of the Government's Public Sector Priorities that reflect good practice elsewhere within Government and can be implemented operationally or without significant costs. These measures will need to be tailored to the public sector agency's circumstances.

The measures may include matters such as:

- a commitment to regular gender auditing, and reporting and efforts to identify and address gender pay gaps in the public sector organisation
- facilitating access to flexible working arrangements
- secure employment initiatives to reduce inappropriate use of casual, fixed term and labour hire, including workforce planning and preparations
- skills and capability development to develop a mobile and agile public sector workforce
- supporting the continued development of whole of government policies by considering further measures to address anti-bullying, gender equity and diversity, mental health, occupational health and safety, and family violence

The BPEC is not expected to contain significant cost items. These items would instead be considered under Pillar 3.

Public sector agencies should work with public sector unions and employees to develop their BPEC as bargaining progresses and to identify the actions to progress these matters.

Additional strategic changes to address key operational reforms or the Public Sector Priorities

Operational or strategic priorities will differ across public sector agencies depending on the challenges they face. Higher cost outcomes linked to a key operational reform or the Public Sector Priorities could include, for example:

- addressing high instances of unscheduled absences on weekends and nights by increasing penalty rates for these shifts or amending rostering practices
- amending opening hours to provide incentives to employees who work expanded hours to ensure services are available at times convenient to the community
- removing or reducing restrictions which impede the efficient allocation of resources
- addressing identified skill or capability gaps and incentivising and facilitating employees' skill development through access to specified TAFE training
- specific measures to address gender inequity (for example, additional parental leave, payment of superannuation during periods of parental leave)
- targeted wage increases to a specific and identifiable cohort of workforce who have historically been underpaid because of gender (for example, through reclassification of a particular feminised role)

Secondary Pathway

The Government has designed Wages Policy to encourage public sector agencies to take a more strategic approach to enterprise bargaining. However, Government recognises that for various reasons, some bargaining parties may prefer to agree to a wage increase in a new enterprise agreement without disrupting any terms and conditions agreed during their previous bargaining round.

Accordingly, a limited secondary pathway is available under Wages Policy for public sector agencies and unions who agree in principle ahead of bargaining that they seek to reach agreement expeditiously on this basis.

The secondary pathway is available only to public sector agencies whose current enterprise agreement reaches its nominal expiry date between 1 January 2022 and 31 December 2022.

The secondary pathway permits agreements to be made only on the following terms:

- one annual wage and allowance increase capped at 2 per cent (half-yearly increases up to the capped rate also permissible, for example 2 x 1 per cent increases in six-monthly instalments)
- a nominal expiry date 12 months from the nominal expiry date of the current agreement
- all other terms and conditions as contained in the current agreement, except for where a change is required under the Industrial Relations Policy, to further mutually agreed whole-of-Government initiatives, to resolve legal issues, or minor changes to improve the clarity of the Agreement

In addition:

- public sector agencies must comply with *Fair Work Act 2009* (Fair Work Act) good faith bargaining requirements
- all agreements must be fiscally sustainable and fully funded from capped indexation, capped revenue and/or appropriate cost offsets
- public sector agencies must meet the timelines prescribed in the Enterprise Bargaining Framework
- public sector agencies using this pathway may also produce a BPEC where agreed with employees and relevant unions, or otherwise are expected to comply with the Government's policy requirements

Transitional Arrangements

Parties to enterprise agreements that have or will nominally expire before 1 January 2022 have the opportunity to finalise new agreements under the current wages policy, before the new Wages Policy comes into effect on that date.

To finalise new agreements under the current wages policy, ensuring adequate time for government approvals, parties and employers must meet the following timeframes:

Where bargaining has already been approved	Government approval of final agreement required by 31 December 2021. To meet this timeframe, in-principle agreement must be reached, and final agreement submitted to government for approval by no later than 30 September 2021. Employers are required to inform unions/bargaining representatives/employees that any offer made under current wages policy requires agreement to be reached within these timeframes.
Where bargaining is yet to be approved	Approval to bargain request must be received by 1 August 2021. In-principle agreement that Industrial Relations Victoria (IRV) and the Department of Treasury and Finance (DTF) consider will be capable of approval by Government must be reached by 1 December 2021. Government approval for these agreements may occur after 1 January 2022. Employers are required to inform unions/bargaining representatives/employees that any offer made under current wages policy requires agreement to be reached within these timeframes.

Enterprise Bargaining Framework

The Enterprise Bargaining Framework (Framework) describes the Government's approval arrangements which public sector agencies must meet before commencing bargaining, during bargaining and before seeking employee approval of final enterprise agreements.

The Framework applies equally where a public sector agency seeks to vary an existing enterprise agreement under the Fair Work Act.

Major and Non-major Agreements

The Framework places different bargaining and governance expectations on different types of public sector agencies relative to the size of their workforce, wages bill, and relative industrial or financial risk profile. The Framework prescribes two categories of enterprise agreement – Major Agreements and Non-major Agreements.

Major Agreements

Major Agreements include any enterprise agreement:

- with a large public sector workforce, with a salary base in excess of $1 billion
- with significant industrial or financial risk
- of strategic or operational importance to Government

Major Agreements include those covering the public service, teachers, police, firefighters, paramedics and major public health sector agreements (including those covering nurses, doctors, allied health professionals, medical scientists and health and allied services, management and administrative employees) as well as other agreements as the circumstances dictate.

The Government will oversee and approve the strategy and negotiations for all Major Agreements.

Non-major Agreements

Non-major Agreements generally cover smaller components of the public sector workforce and carry fewer financial or industrial risks. Any enterprise agreement not classified as a Major Agreement will be treated as a Non-major Agreement for the purpose of this Framework.

When negotiating enterprise agreements, public sector agencies must adhere to the processes and requirements outlined in the Framework applicable to the enterprise agreement to be negotiated.

Where a public sector agency or Portfolio Department is unsure whether an enterprise agreement should be classified as a Major Agreement or Non-major Agreement they should contact IRV.

Early engagement

Negotiations between public sector agencies and bargaining representatives should commence six months prior to the nominal expiry date of the current agreement.

To ensure public sector agencies are in a position to commence bargaining in a timely fashion and without unnecessary delays, internal preparations for bargaining should commence no later than 12 months in advance of the nominal expiry date of the current agreement. This approach will ensure bargaining strategies and proposals for change can be developed with sufficient time to allow for necessary Government oversight prior to the commencement of bargaining.

Table 1: Indicative bargaining preparation timeline

Task	Approximate timeframe	Action owner
Initial discussion between public sector agency, Portfolio Department, IRV and the DTF	12 months prior to nominal expiry date	Public sector agency Portfolio Department IRV DTF
Draft bargaining approval documents to be submitted to Portfolio Department for approval	9 months prior to nominal expiry date	Public sector agency Portfolio Department
Review proposed bargaining approval documents	8 months prior to nominal expiry date	IRV DTF
Bargaining approval documents submitted to Government for approval	7–8 months prior to nominal expiry date	Public sector agency Portfolio Department
Authority to commence bargaining communicated to public sector agency	6 months prior to nominal expiry date	IRV
Bargaining commences	6 months prior to nominal expiry date	Public sector agency

Authority to commence bargaining

Prior to commencing bargaining, public sector agencies are required to seek approval from Government and, and for those bargaining under the primary pathway, submit their proposed Best Practice Employment Commitment for approval.

To obtain the authority to bargain the public sector agency is required to provide information about their workforce demographics, bargaining history and proposed content of a new agreement (please contact your Portfolio Department or IRV for information on the form of the approval submission). Preliminary costings may be required.

The level of detail required in completing the template will reflect the public sector agency's size, wage base and be commensurate with the financial and industrial implications of the proposed agreement.

Eligible public sector agencies seeking authority to commence bargaining under the secondary pathway must provide written confirmation to Government of in-principle support of any public sector union(s) to be covered by the proposed agreement for this course of action.

Table 2: Authority to commence bargaining – Key responsibilities

Responsibility	Action owner
Preparation of submission to Government (Major Agreements)	Portfolio Department
Completion of Template (Non-major Agreements)	Public sector agency Portfolio Department
Direct Engagement with public sector agency (if needed)	Portfolio Department Public sector agency IRV and DTF (as required)
Advice on Enterprise Bargaining Framework or application of Industrial Relations Policy	IRV
Advice on proposed measures to address operational/strategic priorities or the Public Sector Priorities	DTF
Advice on Wages Policy, cost modelling or financial sustainability issues	DTF
Authority, oversight and approval	Government, with appropriate authorisations for some Non-major Agreements

During bargaining

Public sector agencies must keep their Portfolio Department, IRV and DTF informed about the progress of bargaining, particularly where industrial or financial risks emerge. In some cases, this may require further consideration by Government.

Public sector agencies cannot make offers during bargaining outside approved parameters without the offer (and expected financial implications) being approved at the appropriate level of Government for the agreement concerned.

All offers should be made on an in-principle basis, with the public sector agency communicating that the offer is subject to government approval and may be subject to change to ensure compliance with Wages Policy, the Industrial Relations Policy, the Fair Work Act or other relevant legislation.

Public sector agencies pursuing the secondary pathway should ensure bargaining is undertaken in accordance with the Fair Work Act good faith bargaining requirements, in a timely and efficient manner.

Approval requirements

All proposed enterprise agreements require the approval of Government prior to the commencement of any of the formal approval requirements outlined in the Fair Work Act.

To be approved by Government, a proposed enterprise agreement (whether a Major Agreement or Non-major Agreement) must meet all the conditions specified in Wages Policy. In addition:

- the public sector agency must verify that it has conducted a comparison of the terms of the Agreement with the relevant Award, and that the Agreement provides that each employee will be Better Off Overall than the relevant Award, within the meaning of the Fair Work Act
- other requirements from the Public Sector Industrial Relations Policy must be met

The process for seeking Government approval of final agreements under the Framework differs for Major Agreements and Non-major Agreements. Approval of Major Agreements at a high level of Government is required.

Eligible public sector agencies must submit proposed enterprise agreements negotiated under the secondary pathway to Government for approval no later than two months prior to the nominal expiry of the current agreement. A fast track approval process will apply for these agreements. Where Government approval is obtained, agencies must comply with Fair Work Act requirements and seek approval of their agreement from the Fair Work Commission.

Table 3: Final approval - Key responsibilities

Responsibility	Action owner
Submission preparation	Portfolio Department Public sector agency
Direct engagement with public sector agency (if needed)	Portfolio Department Public sector agency IRV and DTF (as required)
Advice on Enterprise Bargaining Framework or application of Industrial Relations Policy	IRV
Advice on Wages Policy, cost modelling or financial sustainability issues	DTF
Advice on proposed measures to address operational/strategic priorities or the Public Sector Priorities	IRV DTF
Authority, oversight and approval (Major Agreements)	Government, with appropriate authorisations for some Non-major Agreements