



**Please note: this Circular has been replaced with
Circular 8/2021**

CIRCULAR TO DEPARTMENTS AND AUTHORITIES NO. 3 OF 2005

PURCHASED LEAVE

These guidelines have been reviewed and replace Circular to Departments and Authorities No. 11 of 2003. Amendments have been made to replace the application of 48/52 salary arrangement with 44/52 and for fixed term contract employees (dependant on the tenure of their contracts) to be eligible to apply for the 44/52 salary arrangement.

The guidelines are attached and can also be found on our website with other circulars:
<http://www.docep.wa.gov.au/Ir/LabourRelations/Content/Public%20Sector/Resources/Circulars/circular.html>

The guidelines should be read in conjunction with the appropriate award or agreement provisions. Where the provisions of the guidelines are inconsistent with awards or agreements, the provisions of the awards or agreements shall prevail.

Should you have any queries on the application of the guidelines please contact your DOCEP Labour Relations Adviser.

**TED ANTHONY
A/ EXECUTIVE DIRECTOR
LABOUR RELATIONS**

24 January 2005

PURCHASED LEAVE GUIDELINES

APPLICATION

These guidelines apply to all employees in the Western Australian public sector who are eligible to apply for purchased leave. Purchased leave refers to the capacity to enter into a deferred salary arrangement and the purchase of up to 8 additional weeks leave per annum.

The guidelines are to be read in conjunction with the relevant purchased leave clauses contained in awards or agreements. Where the provisions of these guidelines are inconsistent with provisions in applicable awards or agreements, the provisions of the awards or agreements shall prevail.

APPROVAL

The approval of employers is subject to operational requirements. Employers may decline a request for purchased leave. Requests for purchased leave from eligible applicants are to be dealt with in a reasonable and timely manner on the basis of fairness and equity. Agencies should consider issuing an operational policy.

Approval for an agreed period does not ensure approval of further periods of purchased leave. Additional approvals will be required.

TYPES OF PURCHASED LEAVE

1. DEFERRED SALARY ARRANGEMENT

This salary arrangement allows employees to reduce their salary by 20% per year over 4 years and have paid leave in the fifth year at 80% of their salary.

Eligibility

All permanent employees are eligible to apply for the deferred salary arrangement as provided for in relevant awards and agreements. Employees engaged on fixed term contracts of 5 years may negotiate, as a term of the contract, to take part in the arrangement. Approval is subject to the leave management policies of agencies.

Application

Employees are entitled to the salary rate received at the end of the fourth year irrespective of the dollar amounts deducted over the 4 years.

Where the hours of employment of employees vary either upward or downward during the four-year qualifying period, the entitlement in the fifth year of the arrangement will be affected. In light of this, any variation to the hours of employment must be by mutual agreement after careful consideration of the effect on the remuneration during purchased leave.

There are no restrictions as to the time of year employees may join the arrangement. However, the time joined will affect when the fifth year is taken. The commencement of the fifth year of the arrangement may, by agreement between the employee and employer, be deferred for a maximum of 6 months. In these circumstances employees proceeding on the one year period of purchased leave will receive the reduced remuneration at the salary rate applicable at the end of the fourth year of the arrangement.

Purchased leave may not be taken in advance. No increments or wage increases are payable in the fifth year of the arrangement.

Basis of early termination

The arrangement ends on the termination of employment or withdrawal from the arrangement by employees in accordance with the relevant purchased leave provisions of awards or agreements. Where there is no such provision, withdrawal will be by agreement between the employer and employee. Employees will, as soon as practicable, be paid out all actual salary forgone during the period of the arrangement to the time of payout. This also applies in situations where employees are granted an early return to work in the fifth year.

Promotion, secondment or transfer

In the event of promotion, secondment or transfer within the public sector the application of the deferred salary arrangement will be subject to the circumstances in a particular workplace. The continued application of the arrangement is to be negotiated between the employee and the new employer. Employers will need to consider Treasurer's Instruction 520 regarding the transfer of funds.

Deferment of leave

Up until the end of the fourth year, employee participation in the arrangement can be temporarily suspended and deferred for a maximum of 6 months by agreement between the employee and the employer. In circumstances where the commencement date of the fifth year is not deferred by the same amount of time, the percentage of the salary paid in the fifth year of the arrangement will be proportionally reduced.

However, employees participating in the arrangement who are granted parental leave may, by agreement with the employer, temporarily suspend and defer the arrangement for a maximum of 12 months.

During periods of deferment, employees are to be paid 100% of the applicable salary.

Employment during purchased leave

During the fifth year, employees must seek employer approval to engage in paid employment. Employees cannot be employed by their employer during the fifth year of the arrangement.

2. 44/52 SALARY ARRANGEMENT

This arrangement allows employees to purchase up to eight additional weeks leave per annum by agreeing to a reduced salary rate over 52 weeks of the year.

Eligibility

All permanent employees are eligible to apply for the 44/52 salary arrangement provided for in relevant awards and agreements. Employees engaged on a fixed term contract may negotiate, as a term of their contract, to take part in the arrangement so long as the tenure is sufficient to cover the arrangement.

Assessment

Approval is subject to the leave management policies of agencies. Employers will assess each application on its own merits and give consideration to the personal circumstances of the employee.

Application

The 44/52 salary arrangement runs over a calendar year concluding on 31 December. New participants can join the arrangement, effective from the beginning of each quarter: 1 January, 1 April, 1 July and 1 October on a proportionate basis. For example, a permanent employee commencing the arrangement on 1 April is entitled up to six weeks purchased leave in that calendar year. A six month fixed term contract employee who commences employment on 1 Aug is entitled to two weeks purchased leave in that calendar year as the employee can enter the arrangement at 1 October.

Purchased leave should be taken in minimum periods of 1 week. However, by agreement between the employer and the employee, purchased leave may be accessed in single days.

All paid leave, including long service leave, taken during the operation of the arrangement will be at the reduced rate applicable to the number of weeks purchased.

Purchased leave does not accrue and any portion of unutilised purchased leave is paid out on the last pay period in January of the next calendar year.

Where the hours of employment of employees vary either upward or downward during the calendar year qualifying period, the remuneration paid on purchased leave will be affected. These variations should be adjusted on the last pay in January of the following year.

Employers need to ensure that purchased leave is not used in substitution of annual leave, resulting in a carry-over and accrual of annual leave into the following year.

Basis of early termination

Employees who have not accessed the full entitlement, can withdraw from the arrangement effective from the end of each quarter: 31 March, 30 June and 30 September.

On termination or withdrawal unutilised purchased leave will be paid out. Where purchased leave in excess of the pro rata entitlement has been taken employers shall recoup from employees the unearned portion of the purchased leave. On withdrawal, the pay adjustment shall be made no later than the final pay period in the following month.

Promotion, secondment or transfer

In the event of promotion, secondment or transfer the application of the 44/52 salary arrangement will be subject to the circumstances in a particular workplace. The continued application of the arrangement is to be negotiated between the employee and the new employer.

Entitlements

The effect of purchased leave on entitlements is detailed in **Appendix 1**.

Financial Advice

Employers should encourage employees to seek appropriate advice. Employees should seek further advice on the effect on taxable income, West State, Gold State and private contribution superannuation arrangements as well as that of non-contributory superannuation, and salary packaging, prior to seeking to enter into purchased leave arrangements.

Superseded

Purchased Leave: Deferred and 44/52 Salary Arrangements Effect on entitlements

Annual Leave	<p>Annual leave taken during the operation of the arrangements is paid at the reduced rate.</p> <p>Deferred Salary Arrangement: The twelve months paid absence from work in the fifth year of the arrangement includes the annual leave entitlement of 4 weeks for that year. Annual leave credits should be debited by 4 weeks. [Note: the total amount of annual leave accrued during the arrangement is 20 weeks.]</p>
Annual Leave Travel Concession (ALTC)	<p>Deferred Salary Arrangement: ALTC is available to employees during the fifth year of the arrangement where employees have qualified for an ALTC. At the completion of the arrangement, the fifth year is excised from the qualifying period to access the next ALTC.</p> <p>44/52: The ALTC is accessible to employees during the operation of the arrangement.</p>
Annual Leave Loading (ALL)	<p>ALL is paid on all annual leave taken during the operation of the arrangements on the reduced salary.</p> <p>Deferred Salary Arrangement: Employees will receive ALL for the annual leave entitlement of 4 weeks included in the fifth year of the arrangement. The ALL should be paid in the first 4 weeks of the fifth year.</p> <p>44/52: ALL is not paid on purchased leave.</p>
Public Holidays and Public Service Holidays in lieu	<p>Deferred Salary Arrangement: Employees have no entitlement to public holidays and public service holidays in lieu during the fifth year of the arrangement.</p>
Long Service Leave (LSL)	<p>Deferred Salary Arrangement: On resumption after the fifth year of the arrangement the accrual date for a LSL entitlement will be extended by seventy-three days.</p> <p>44/52: The accrual of LSL for employees under this arrangement is not affected.</p>
Personal Leave (Sick Leave)	<p>Personal leave taken during the operation of the arrangements is paid at the reduced rate. Employees cannot substitute personal leave for illness or injury when on purchased leave.</p> <p>Deferred Salary Arrangement: On resumption after the fifth year of the arrangement the anniversary date of personal leave accrual is extended by seventy-three days.</p>

Parental Leave	<p>Paid parental leave taken during the operation of the arrangements will be paid at the reduced rate.</p> <p>Deferred Salary Arrangement: In order to access any period of unpaid parental leave will require a suspension of the arrangement for a maximum of 12 months. Paid parental leave is not accessible in the fifth year of the arrangement.</p> <p>44/52: In order to access any period of unpaid parental leave, employees will need to withdraw from the arrangement.</p>
Other leave entitlements: eg bereavement, carers, cultural and study leave.	<p>Employees have no entitlement to other forms of paid leave such as bereavement, cultural and military leave while on purchased leave.</p>
Commutated Allowances	<p>When a commuted allowance is paid as an annual amount or percentage of salary and paid per fortnight, employees will receive the allowance at the reduced rate and during periods of purchased leave.</p>
District Allowance	<p>Employees shall only be paid district allowance for the period of the purchased leave if the employee, dependant/s or partial dependant/s remain in the district in which the employee's headquarters are located.</p> <p>Deferred Salary Arrangement: If employees do not reside in the district during the fifth year of the arrangement they will not be paid the district allowance.</p>
Salary/Service Increments	<p>Deferred Salary Arrangement: During the fifth year of the arrangement, the anniversary date for service increments is extended by seventy-three days and the new anniversary date for subsequent increments is maintained. Any increment or salary increase is payable on the resumption of work.</p>
Shift Penalties, On Call, Availability and Standby Allowances	<p>The shiftwork, on call, availability and standby allowances are compensation in addition to the normal salary and are payable at the rate specified in the award or agreement. Where these allowances are referred to as a percentage of salary they are not calculated on the reduced rate.</p>
Higher Duties Allowance (HDA) / Temporary Special Allowance (TSA)	<p>The payment employees receive is the difference between the substantive salary and the salary the employee would receive if permanently appointed to the acting position under the award or agreement. HDA and TSA are not paid on purchased leave.</p>
Overtime	<p>Overtime is paid at the normal substantive salary not the reduced rate. This will also apply where overtime is referred to as a percentage of salary.</p>