



Purchased Leave Policy

The Purchased Leave Policy outlines the application of the Purchased Leave provisions which apply to public service agencies as defined in the *Government Sector Employment Act 2013*. Other areas of the government sector are strongly encouraged to adopt these provisions.

Purchased Leave is a voluntary arrangement where employees may purchase additional leave. The approval of Purchased Leave Agreements is subject to departmental business and operational needs.

Purchased Leave applies to Agencies covered by the Crown Employees Salaries Award Memorandum of Understanding that have enterprise specific awards. Agencies were required to vary their Award conditions as soon as practicable in line with these changes.

The *Crown Employees (Public Service Conditions of Employment) Reviewed Award 2009* was been varied to reflect these provisions at clause 76, which took effect from 28 May 2009.

The Purchased Leave Policy, Fact Sheet and Agreement Form for agency use are available from www.treasury.nsw.gov.au.

Philip Gaetjens
Secretary

Further Information:

Which agencies does this Circular apply to?

Public Service Agencies (as defined in the Government Sector Employment Act 2013) which on 23 February 2014 corresponded to Divisions listed in Schedule 1, Part 1 of the *Public Sector Employment and Management Act 2002* and agencies that corresponded to those identified in Attachment 1 of the Memorandum of Understanding in Settlement of the *Crown Employees (Public Sector Salaries – 2008)* Award.

Who needs to know about this Circular?

Chief Executives, human resource managers, managers and supervisors.

Issued by: Public Sector Industrial Relations, NSW Industrial Relations, NSW Treasury

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Purchased Leave Policy

Introduction

The NSW Government acknowledges the value of flexible working arrangements to enable staff members to achieve a balance between work responsibilities and personal commitments. In recognition of this a Purchased Leave scheme was introduced to facilitate the ability for staff members to purchase additional Leave ("Purchased Leave") as provided in Clause 76 of *the Crown Employees (Public Service Conditions of Employment) Reviewed Award 2009*.

Purchased leave is an arrangement whereby permanent full-time and part-time staff members, and temporary staff members employed for more than 12 months from the time of entering into the Purchased Leave Agreement, can apply to purchase additional leave entitlements of either 10 days (2 weeks) or 20 days (4 weeks) or equivalent pro rata in a 12 month period.

The approval of Purchased Leave Agreements is subject to departmental business needs and work demands. Purchased leave is to be taken at agreed and specified dates as set out in the Purchased Leave Agreement.

Staff members will have their annual gross salary reduced in exchange for the purchased leave. Staff members should note that other leave entitlements and superannuation will be affected by their reduced salary rate and are encouraged to seek financial advice before entering into the agreement.

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Chapter 1 General

Application of this policy

Public Service Agencies (as defined in the Government Sector Employment Act 2013) which on 23 February 2014 corresponded to Divisions listed in Schedule 1, Part 1 of the *Public Sector Employment and Management Act 2002* and agencies that corresponded to those identified in Attachment 1 of the Memorandum of Understanding in Settlement of the *Crown Employees (Public Sector Salaries – 2008) Award*.

Agencies may develop their own policies, provided they are consistent with the framework, principles and intent of this policy.

Industrial instruments

This policy should be read in conjunction with the relevant industrial instrument(s) and in the event of an inconsistency the condition outlined in the relevant award will prevail.

Grievance procedures

All work-related concerns and grievances should be managed in accordance with the grievance and dispute resolution processes contained in the relevant industrial instrument.

Chapter 2 Mandatory requirements

Application

1. The Department Head or other delegated officer may enter into an agreement with a staff member to enable additional leave to be purchased for use within a specified 12-month period.
2. Participation in the Purchased Leave scheme is voluntary for staff members and subject to departmental approval.
3. Applications by staff members will be considered subject to operational requirements.
4. A Purchased Leave Agreement must be completed and approved before the staff member can enter the scheme.
5. Both the staff member and their manager must agree on when the purchased leave will be taken in the 12-month period.
6. Participation in the scheme is for a period of 12 months from the date of the first salary deduction.
7. Staff members wishing to renew their participation must reapply for a new Purchased Leave Agreement.

General Conditions

8. A Purchased Leave Agreement covers a specific 12-month period.
9. Purchased leave can be taken at any time in the 12-month period provided it is set out in the Purchased Leave Agreement (that is, the payment of the purchased leave does not need to be accrued prior to taking the leave).
10. At the end of the 12-month period a staff member's accrued recreation leave balance must be reduced to 20 days or less.
11. A staff member will not be approved entry into the scheme if their recreation leave accrual is likely to exceed 40 days within the 12-month period of the Purchased Leave Agreement.
12. A staff member may seek to combine recreation and purchased leave.
13. The Purchased Leave Agreement must specify when the purchased leave will be taken in the 12-month period. The Purchased Leave Agreement should also indicate when recreational leave will be taken.
14. Generally a staff member should not change their work pattern during the life of a Purchased Leave Agreement (that is full time to part-time or part-time to full time). If this is absolutely necessary the Purchased Leave Agreement will be terminated and reconciled.
15. All purchased leave must be taken in the agreed 12-month period it is due. It cannot be accrued to the following year. If not all of the purchased leave has been taken by the end of the 12-month period, the Purchased Leave Agreement will be reconciled and the remaining days paid out to the staff member.
16. Periods of purchased leave are recognised as service for all purposes.
17. Purchased leave must be taken in minimum blocks of 5 days (or pro-rata for part-time staff weekly work pattern). Single days will not be approved.
18. Where a public holiday falls within a period of purchased leave the public holiday is not counted as purchased leave. A minimum 5-day block of purchased leave will still apply.

19. At the end of a Purchased Leave Agreement the staff member's salary will revert to the ordinary salary rate for all salary and leave purposes.
20. Leave loading is paid on the normal 20 days recreation leave entitlement (or pro rata equivalent). Purchased leave does not attract leave loading.
21. Purchased leave cannot be taken at half pay.
22. Purchased leave cannot be taken at double pay.
23. Where a staff member is seconded or appointed to another agency, the Purchased Leave Agreement will be terminated and reconciled unless the receiving agency agrees to continue the scheme.

Leave Conditions

24. Sick leave cannot be taken during periods of purchased leave.
25. Leave without pay (LWOP) will not generally be granted during the Purchased Leave Agreement period. Where exceptional circumstances exist which require the taking of LWOP, the Purchased Leave Agreement will generally be terminated and reconciled. In cases of short periods of LWOP the Department may either terminate and reconcile the Purchased Leave Agreement or extend the agreement for the duration of the LWOP.
26. For Parental Leave without pay the Purchased Leave Agreement will generally be terminated and reconciled. For short periods of Parental Leave without pay the Department may either terminate and reconcile the Purchased Leave Agreement or extend the agreement for the duration of the Parental Leave without pay.
27. Where a staff member is required to take sick leave without pay, the Purchased Leave Agreement will either be terminated and reconciled or the purchased leave period extended for the duration of the sick leave without pay.
28. Where a staff member's salary has been reduced as a result of Workers Compensation, the Purchased Leave Agreement will be terminated and reconciled.

Effect of Purchased Leave on Pay

29. Under a purchased leave scheme staff will have their annual salary adjusted commensurate with the number of leave days purchased. That is, the staff member will have a new, purchased leave rate of pay.
30. The salary rates will be based on the following:
 - for the purchase of 20 additional days per year (4 weeks), the new salary rate will be 92.3%(48/52) of the ordinary salary rate or pro rata equivalent .
 - for the purchase of 10 additional days per year (2 weeks), the new salary rate will be 96.15%(50/52) of the ordinary salary rate or pro rata equivalent.
31. Salary-related allowances not normally paid during leave will not be paid during periods of purchased leave and will be paid at the ordinary salary rate of pay when they are paid.
32. The purchased leave rate of pay for a staff member temporarily appointed to another position will be calculated using the salary for that position.

33. The effect on staff entitlements due to participation in the purchased leave scheme is as follows:

Entitlement	Under the Purchased Leave scheme
Recreation leave	Paid at purchased leave rate Accrual is not reduced by purchased leave
Recreation leave loading	Paid at purchased leave rate on recreation leave only
Superannuation	Paid at purchased leave rate Staff members are advised to seek financial advice before entering into a purchased leave scheme
Allowances not paid during periods of leave	Not paid during periods of purchased leave Paid at ordinary salary rate
Allowances paid during recreation leave	Paid at the purchased leave rate
Higher Duties Allowance	The HDA, being the difference between the ordinary rate of pay and the higher rate, is paid in addition to the purchased leave rate HDA is not paid during periods of purchased leave
Overtime	Paid at ordinary salary rate
Leave in Lieu of overtime	Paid at purchased leave rate
Public Holidays	Paid at purchased leave rate
Sick / Carers Leave / FACS leave Etc	Paid at purchased leave rate Accrual is not reduced by purchased leave
Extended/Long Service Leave	Paid at purchased leave rate Accrual is not reduced by purchased leave
Parental leave	Paid at purchased leave rate Entitlement is not reduced by purchased leave
Termination of Employment	Reconciliation of purchased leave balance on termination, together with other leave. Final monies paid at the ordinary rate of pay

Effect on Pay Progression

34. If a staff member's pay progression date falls within the 12-month Purchased Leave Agreement, their purchased leave rate of pay will be recalculated using the higher salary rate (which includes the progression) for the remainder of the 12-month period. The same principle applies to a promotion.

Effect on Salary Packaging

35. It is the responsibility of individual staff members to seek appropriate financial advice to determine how purchased leave affects any salary packaging items.

Variation to Purchased Leave Agreement

36. A Purchased Leave Agreement may not be varied during the course of the 12-month period except in exceptional circumstances and with the agreement between the manager and the staff member.

Termination of Purchased Leave Agreement

37. A staff member may lodge a written request with the delegated officer to have a Purchased Leave Agreement terminated where exceptional circumstances can be proven. This may include, but is not limited to, when a person is declared unfit to work by a medical practitioner or changed personal circumstances result in financial hardship.
38. A manager may seek approval from a Department Head or other delegated officer to terminate a Purchased Leave Agreement where significantly changed circumstances mean that the Purchased Leave Agreement can no longer be accommodated within the operational requirements of the Department. The staff member must first be consulted and then provided with written notification. At least 4 weeks' notice must be given.
39. On termination of a Purchased Leave Agreement or on completion of the 12-month purchased leave period, the staff member's salary will revert to the ordinary salary rate for all salary and leave purposes.
40. A Purchased Leave Agreement will automatically be terminated on the resignation or termination of employment.
41. On termination of a Purchased Leave Agreement, the reconciled salary will be paid as a lump sum to the staff member in the next available pay period, or if the staff member's employment is terminating, as part of the termination pay.
42. In cases where a staff member resigns or terminates employment any outstanding purchased leave balance will be reconciled in their final payment.
43. Where a negative balance exists at the reconciliation of the final monies, the staff member will be required to repay the amount immediately. The agency may agree to a repayment schedule if requested by the staff member.
- ### **Superannuation**
44. During a period in which a Purchased Leave Agreement is in operation, the staff member's superannuation contribution will be based on the staff member's purchased leave salary for that year i.e. the reduced salary level. In cases where a staff member is a member of a defined benefits superannuation scheme (i.e. SSS or SASS), the scheme will recognise the reduced rate of pay for the purposes of assessing superannuation contributions. This has implications for superannuation contributions, payments and entitlements.
45. Where a Purchased Leave Agreement is terminated and the salary payable is reconciled, the staff member's superannuation contribution will also be recalculated based on the revised salary. In cases where a staff member is a member of a defined benefits superannuation scheme (i.e. SSS or SASS), the scheme will recognise the revised salary amount for the purposes of assessing superannuation contributions and benefits.
46. Staff members should seek financial advice prior to entering into a Purchased Leave Agreement.

Chapter 3 Operational Requirements

Applying For Purchased Leave

47. The staff member seeks a Purchased Leave Agreement with the staff member's manager, which includes a leave plan covering both purchased leave and recreation leave for the 12 months of the purchased leave scheme.
48. The staff member and manager meet to discuss the proposal and if it can be accommodated in the operational requirements, they develop a Purchased Leave Agreement.
49. The Purchased Leave Agreement is approved by the delegated officer.

Taking Purchased Leave

50. Purchased leave must be taken in a minimum block of 5 days (or pro-rata equivalent for part-time staff).
51. Sick leave cannot be taken during periods of purchased leave.
52. Purchased leave cannot be taken at half pay or other reduced rate.
53. Purchased leave cannot be taken at double pay or other increased rate.

Chapter 4 Responsibilities

Staff

54. Are responsible for investigating the financial impact on their superannuation and leave entitlements, salary packaging, taxation and other financial aspects prior to committing to any arrangement made under this scheme.
55. Must comply with the provisions in this policy, particularly in regard to the taking of the purchased leave within the 12-month period as set down in the agreement.
56. Must repay any final monies owing on termination of agreement or employment.

Managers

57. Manage and review purchased leave arrangements so that operational requirements of the work unit are met.
58. Ensure that periods of purchased leave specified in the Purchased Leave Agreements are respected.
59. Maintain appropriate records of Purchased Leave Agreements and any variations.
60. Monitor and reconcile the time worked and leave taken by employees.
61. Ensure the provisions of this purchased leave policy are applied fairly, consistently and in accordance with EEO principles.

Chapter 5 Definitions

“Purchased leave” is a voluntary arrangement under which staff members are able to purchase additional leave entitlements of 20 days (4 weeks) or 10 days (2 weeks) per 12-month period. Purchased leave is paid at the reduced purchased leave rate and no leave loading is payable on the additional leave.

“Purchased leave rate” means the rate of pay a staff member receives when the staff member’s ordinary rate of pay has been reduced to cover the cost of the purchased leave of 92.3% (if 20 days (4 weeks) leave purchased 48/52) or 96.15% (if 10 days (2 weeks) leave purchased 50/52).

“Ordinary rate” means the award rate for ordinary hours of work excluding overtime and allowances not regarded as salary.

Appendices Relevant forms and records

Appendix 1 Purchased Leave Fact sheet

PUBLIC SECTOR WORKFORCE FACT SHEET

NSW Government Purchased Leave Policy – Q & A

General information

Q: Why has the Purchased Leave Scheme been introduced?

A: The NSW Government acknowledges that more flexible work arrangements may help some employees to achieve a better balance between work responsibilities and family and personal commitments. The Purchase Leave Scheme allows employees to purchase additional leave as provided in the *Crown Employees (Public Service Conditions of Employment) Reviewed Award*.

Q: How much extra leave can be purchased through the scheme?

A: Employees can apply for additional purchase leave entitlements of either 10 days (two weeks) or 20 days (four weeks) or the equivalent pro rata in a 12 month period.

Q: Can purchased leave be taken as a single day?

A: No. Purchased leave must be taken in minimum blocks of five days.

Q: Do I need to accrue purchased leave before it can be taken?

A: No. Purchased leave cannot be accrued to following years.

A: All purchased leave must be taken in the agreed 12 month period.

Eligibility for participation

Q: Will participation in the Purchased Leave Scheme be automatically approved for all employees?

A: Not necessarily. Participation in the Purchased Leave Scheme is subject to departmental approval. Approval must be gained from the employee's manager and the Department Head or delegate and is subject to the operational requirements of the agency.

Q: Who is not eligible to participate in a Purchased Leave Agreement?

A: Employees with a recreation leave balance of greater than 40 days cannot apply for a purchased leave agreement.

Q: Can part-time employees participate in a Purchased Leave Agreement?

A: Yes.

Q: Can temporary and casual employees participate in a Purchased Leave Agreement?

A: Temporary employees with more than 12 months continuous service may participate in an agreement. Casual employees are not eligible for participation.

Applying for purchased leave

Q: How does an employee apply for purchased leave?

A: The employee must first consult with their manager and then complete the agency's application and agreement form and submit it to the Human Resources Department for final approval from the Agency Head or delegate.

Q: Is a Purchased Leave Agreement automatically continued each year?

A: No, employees wishing to renew their application must reapply for a new Purchased Leave Agreement.

Purchased leave and the effect on salary

Q: What effect will participating in the scheme have on employees' salary or pay?

A: Employees will have their annual salary adjusted according to which of the two additional leave options is taken. This new salary will be the 'purchased leave rate of pay'. The salary rates will be calculated using the following methodology:

- For the purchase of 20 additional days per year (4 weeks) the new salary will be 92.3% (48/52) of the ordinary salary rate or pro rata equivalent
- For the purchase of 10 additional days per year (2 weeks) the new salary will be 96.15% (50/52) of the ordinary salary rate or pro rata equivalent

Q: What will happen to my salary when the Purchased Leave Agreement ends?

A: At the end of a Purchased Leave Agreement the employee's salary will revert to the ordinary salary rate for all salary and leave purposes.

Q: What effect will participating in the scheme have on employees' superannuation?

A: Superannuation contributions will be paid at the purchased leave rate. Employees should seek financial advice before entering into the Purchased Leave Agreement.

Q: What effect will participating in the scheme have on employees' salary packaging?

A: Individual circumstances will vary and employees should seek appropriate financial advice to determine how purchased leave affects any salary packaging items.

Q: What happens if my pay progression (increment) date falls within the purchase leave period?

A: The purchased leave rate of pay will be recalculated using the higher salary rate for the remainder of the 12 month period. The same principle applies to a promotion.

Q: What happens if I am appointed to a temporary position at a different rate of pay?

A: The purchased leave rate of pay will be recalculated using salary for that position.

Q: Can purchased leave be taken at any other reduced or increased rate of pay (eg: half pay or double time)?

A: No.

Varying purchased leave conditions

Q: Can a Purchased Leave Agreement be varied during the 12 month period?

A: The agreement may not be varied within the 12 month period except in exceptional circumstances and with the agreement of the employee's manager.

Q: Can an employee change their work patterns during purchased leave?

A: An employee should not change their work pattern during the life of a Purchased Leave Agreement (for example: full time to part-time). If this does occur, the Purchased Leave Agreement will be terminated.

Q: What happens if the purchased leave is not taken within the agreed 12 month period?

A: All purchased leave should be taken in the agreed 12 month period. If all the purchased leave is not taken at the end of the 12 month period, the Purchased Leave Agreement will be reconciled and the remaining days paid out to the staff member.

Recreation leave, sick leave and public holidays

Q: Can Purchased leave be taken together with other forms of leave?

A: Employees may seek to combine purchased leave with recreation leave. When this occurs, the Purchased Leave Agreement must indicate when both forms of leave will be taken in the 12 month period.

Q: Can sick leave be taken during purchased leave?

A: No, sick leave cannot be taken during periods of purchased leave.

Q: What happens if a public holiday falls within a period of my purchased leave?

A: Where a public holiday falls within a period of purchased leave the public holiday is not counted as purchased leave.

Terminating a purchased leave agreement

Q: Can a Purchased Leave Agreement be terminated by an employee?

A: Yes. An employee must lodge a written request with the delegated officer to terminate a Purchased Leave Agreement. This should only occur when exceptional circumstances exist.

Q: Can a Purchased Leave Agreement be terminated by the employer?

A: Yes. Where significantly changed circumstances mean that the Purchased Leave Agreement can no longer be accommodated by the Agency the employee's manager may seek approval from the Department Head or delegated officer to terminate the agreement. The employee must be consulted, provided with written notification and given at least 4 weeks' notice.

Q: What happens to the agreement if an employee resigns or terminates employment?

A: Any outstanding leave balance will be reconciled in their final payment. If a negative balance exists the employee will be required to repay the money.

More information

Treasury's Purchased Leave Policy contains detailed information about the scheme and its application. The policy is available on the Treasury website www.treasury.nsw.gov.au or can be obtained from your HR department.

Appendix 2 Purchased Leave Agreement Form

AGENCY LOGO	Agency Name Human Resources Department Telephone: Email:
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APPLICATION TO PURCHASE ADDITIONAL LEAVE

Prior to completing this application form, all applicants must:

- Read the NSW Government Department of Premier and Cabinet Purchased Leave Policy available on the Department of Premier and Cabinet website: www.dpc.nsw.gov.au
- Refer to (Agency name's) Purchased Leave Policy FACT sheet
- Discuss all proposed leave dates with their manager
- Contact the (Agency Human Resources Department) with any queries (if required)
- Check their accrued annual leave balance on (relevant HR system)
- Seek appropriate financial advice to see what effect the purchasing of additional leave will have on their superannuation payments and entitlements and on salary packaging items.

Employee to complete

Title (Mr/Mrs/Ms/Other):	Employee number:
Family name:	Given name:
Position title:	Grade or Classification:
Agency name:	Branch/Division:
Telephone (work):	Email (work):

Purchased Leave Agreement period (12 months) commences:
Period of absence (Note: leave can be taken in combination with other paid leave)

Total period of absence (10 or 20 days or pro rata) in minimum of 5 day blocks Date of first working day absent:	Date of last working day absent:
Purchased leave component Date of first working day absent:	Date of last working day absent:
Date(s) when recreation leave will be taken:	Balance of recreation leave:

Undertaking

I have read and understand the Purchased Leave Policy and sought financial advice. I understand I may not vary the Purchased Leave Agreement except in exceptional circumstances. I understand that approval of this Agreement is subject to operational requirements.	
Employee's signature:	Date:
Please forward the completed form to your manager	

Employee's manager to complete

Approved <input type="checkbox"/>	Not approved <input type="checkbox"/>
Reason for non-approval:	
Manager's signature:	Date:
Manager's name:	Title:
Director/CEO signature:	Date:

The Purchased Leave Application Form policy is available on the Treasury website www.treasury.nsw.gov.au or can be obtained from your HR department.

Appendix 3 *Crown Employees (Public Service Conditions of Employment)* Reviewed Award 2009 clause

Crown Employees (Public Service Conditions of Employment) Reviewed Award 2009

Clause 76. Purchased Leave

- 76.1 A staff member may apply to enter into an agreement with the Department Head to purchase either 10 days (2 weeks) or 20 days (4 weeks) additional leave in a 12 month period.
- 76.1.1 Each application will be considered subject to operational requirements and personal needs and will take into account departmental business needs and work demands.
- 76.1.2 The leave must be taken in the 12 month period specified in the Purchased Leave Agreement and will not attract any leave loading.
- 76.1.3 The leave will count as service for all purposes.
- 76.2 The purchased leave will be funded through the reduction in the staff member's ordinary rate of pay.
- 76.2.1 Purchased leave rate of pay means the rate of pay a staff member receives when their ordinary salary rate has been reduced to cover the cost of purchased leave.
- 76.2.2 To calculate the purchased leave rate of pay, the staff member's ordinary salary rate will be reduced by the number of weeks of purchased leave and then annualised at a pro rata rate over the 12 month period.
- 76.3 Purchased leave is subject to the following provisions:
- 76.3.1 The purchased leave cannot be accrued and will be refunded where it has not been taken in the 12 month period.
- 76.3.2 Other leave taken during the 12 month purchased leave agreement period i.e. sick leave, recreation leave, extended leave or leave in lieu will be paid at the purchased leave rate of pay.
- 76.3.3 Sick leave cannot be taken during a period of purchased leave.
- 76.3.4 The purchased leave rate of pay will be the salary for all purposes including superannuation and shift loadings.
- 76.3.5 Overtime and salary related allowances not paid during periods of recreation leave will be calculated using the staff member's hourly rate based on the ordinary rate of pay.
- 76.3.6 Higher Duties Allowance will not be paid when a period of purchased leave is taken.
- 76.4 Specific conditions governing purchased leave may be amended from time to time by the Secretary in consultation with the Association. Departments may make adjustments relating to their salary administration arrangements.