

# Implementing purchased leave arrangements:

A guide for Queensland Government  
Departments and Agencies

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## Purpose

The purpose of this Guideline is to assist Queensland government departments and agencies to effectively implement and manage purchased leave arrangements. These guidelines accompany the provisions contained within Ministerial Directive 8/06 *Special Leave*, Ministerial Directive 6/06 *Leave Without Salary Credited as Service* and Memorandum of Agreement *Public Sector Wage Bargaining in Queensland 2005-2007*.

## Definitions

**“Purchased leave”** is special leave without salary. It is funded by fortnightly deductions from net salary (ie after tax and superannuation contributions have been deducted) that occur over a nominated period of time. The fortnightly salary deductions are set aside and accessed as “salary” during a period of special leave without pay that is known as a period of “purchased leave.”

The **“purchased leave period”** is the period or periods of purchased leave the employee has negotiated to access as special leave without salary and fund by way of regular fortnightly salary deductions.

The **“work period”** is the period specified in a purchased leave agreement when an employee is at work or on authorised paid leave such as recreation leave, long service leave, sick leave, paid parental leave or special leave with pay.

A **“purchased leave agreement”** is a written agreement that as a minimum, includes the duration of the work and purchased leave periods, the anticipated dates of purchased leave taking, the basis for calculating the applicable fortnightly salary deductions and the agreed right of return to pre-existing employment arrangements. It may also include any other issues the parties wish to include and must not contradict provisions of any relevant industrial instruments.

## Application

Purchased leave is available to permanent and temporary public service employees in Queensland Government agencies, statutory authorities and commercialised business units, as per the Memorandum of Agreement *Public Sector Wage Bargaining in Queensland 2005-2007* (MOA).

The MOA requires that departments and agencies must offer eligible employees the ability to access up to 6 weeks’ purchased leave, within a 12 month period. Eligible employees may negotiate to purchase from a minimum of one week up to 6 weeks purchased leave subject to operational requirements and the approval of the chief executive. Purchased leave may be used for any purpose. The extra leave is funded via salary deductions.

Purchased leave is also available to senior executive officers and senior officers in accordance with Directive 7/06 *Senior Executives and Senior Officers - Employment Conditions*. This Directive states that senior executives and senior officers are entitled to leave in accordance with the provisions contained in the Schedule of a Ministerial Directive.

### ***Part-time employees***

Part-time employees have the same rights as full-time employees to negotiate purchased leave agreements on a pro rata basis.

### ***Periods of Operation***

The minimum period of operation of a purchased leave agreement is one year. For example, a purchased leave agreement could include working for:

- 50 weeks in a year and taking 2 weeks' purchased leave; or
- 48 weeks in a year and taking 4 weeks' purchased leave; or
- 46 weeks in a year and taking 6 weeks' purchased leave.

The chief executive has the discretion to offer employees access to periods of purchased leave in excess of 6 weeks per year and/or extend the length of the purchased leave agreement beyond 12 months.

To assist with efficient administration, the chief executive may give employees starting times from which purchased leave arrangements may be entered into. For example, purchased leave arrangements may operate over a financial year, calendar year or any other period agreed to by the chief executive.

## **Implementation**

It is important that chief executives implement systems and processes that ensure that purchased leave is subject to efficient, effective and appropriate management and is positively promoted as a means of assisting employees to achieve work and life balance.

Employees participating in a purchased leave arrangement should not be disadvantaged in terms of access to learning and development opportunities. These include but are not limited to course attendance, job rotations, higher duties, participation in project teams and committees, study leave and representation on interdepartmental working parties and committees.

### ***Minimum period of leave to be taken***

The minimum period of purchased leave that may be taken at any one time is one week unless a chief executive determines that it is cost-effective and appropriate to apply a shorter minimum period.

### ***Continuity of service***

An employee's continuity of service is not broken by long-term periods of authorised purchased leave, however, long periods of purchased leave may not be credited as service. Directive 6/06 *Leave Without Salary Credited as Service* provides detailed information in relation to this issue.

## **Applying for purchased leave**

Purchased leave applications should be made in writing in a form determined by the chief executive.

The application should include as a minimum the expected dates for taking the purchased leave and an indication of when any available recreation leave and long service leave or parental leave (if any), is most likely to be taken during or in conjunction with the period of the purchased leave agreement.

In cases of approved applications, the employee must be provided with a copy of a purchased leave agreement that as a minimum, specifies the duration of work and purchased leave periods of the agreement, the proposed dates of leave taking, the basis for calculating the applicable salary deductions, the agreed right of return to pre-existing employment arrangements and any other issues the parties may wish to include.

Applications should not be unreasonably refused. A full and reasonable assessment of operational requirements should be conducted when considering any application. Issues to consider might include (but are not restricted to) reorganisation of work arrangements, impact upon customer service and reasonable notice of the intended timing of the leave.

If an application is not approved and the employee believes that the employer's reasons for refusing to approve the application are unreasonable, the employee may lodge a grievance in accordance with Directive 04/03 *Grievance Resolution*.

### ***Timing of leave***

The chief executive should decide in consultation with the employee when the employee is to take the leave in keeping with the operational needs of the department.

The employee should be given timely notice as to whether the purchased leave applied for has been approved or not. If the purchased leave has been approved, the employee should be given written confirmation of the approved arrangements.

## **Varying an agreement**

### ***Recall or cancellation of leave***

A chief executive may, in extraordinary circumstances, recall an employee from purchased leave, or cancel the approval or granting of any purchased leave, or defer the taking of the leave.

An employee should be allowed to subsequently take any purchased leave from which he or she has been recalled or which was cancelled or deferred at the earliest time that is mutually convenient to the employee and the chief executive. Money would be held until the leave is taken.

### ***Withdrawal or variation***

It is expected that employees who negotiate a purchased leave agreement will follow through on their commitment. However, in the case of unforeseen or other extenuating circumstances such as a promotion, transfer to a new job or a change in personal circumstances, an employee may apply to withdraw from or make a variation to the terms of a purchased leave agreement.

Withdrawal from or a variation to the terms of a purchased leave agreement is at the discretion of the chief executive. Where a chief executive agrees that an employee

may withdraw from a purchased leave arrangement, any accrued purchased leave is to be taken immediately or at a later time as agreed by the chief executive.

Alternatively, an employee may apply to have any withheld salary monies paid out in lieu of taking purchased leave.

### ***Cash equivalent on termination or payment on departure from employment***

A person who ceases to be an employee and who, at that date, has not accessed all of the purchased leave available in accordance with a purchased leave agreement is entitled to receive a payment of an amount equal to any accumulated salary deductions that have not yet been accessed for purchased leave taking.

### ***Payment on an employee's death***

Any accumulated salary deductions that are payable as a result of an employee entering into a purchased leave agreement are to be paid to the employee's personal representative or estate.

### ***Promotion, transfer to another work area or another agency***

An employee may apply to renegotiate an existing purchased leave agreement with another agency or another work area in their existing agency in the event of promotion or transfer to another work area or another agency, subject to operational requirements as determined by the relevant chief executive.

If the employee is promoted, the salary deduction would need to be re-calculated to reflect the increase in the employee's salary.

In the case of transfer to another agency, if there is agreement to continuation, any accumulation of salary deductions held by the releasing agency is to be paid out to the employee, or transferred to the new agency.

Any new agreement would simply acknowledge the amount of purchased leave already accumulated as a result of the pre-existing agreement and the employee's intention to access this amount of purchased leave during the life of the new agreement. There will be no need for any further salary deductions to cover the pre-existing purchased leave "accumulation".

If it is not possible for operational reasons for an employee to establish a new agreement with the new employing agency or for a new work area to continue a pre-existing agreement, the employee is to be given the option of either taking any accrued purchased leave at a time convenient to the new employing agency or the new work area or having accumulated salary deductions being held by the employer paid out in lieu of accessing the purchased leave.

## **Managing purchased leave salary deductions**

Key principles in the management of purchased leave salary deductions or accumulations include:

- Providing for participating employees to set aside an agreed amount of their net salary towards their purchased leave taking. The agreed fortnightly salary deduction, when accumulated, is to cover the agreed cost of the purchased leave requested.

- Ensuring recreation, sick and long service leave accruals are correctly adjusted to account for any periods of purchased leave as leave without salary credited as service as per the relevant directive.
- Advising participating employees to seek advice from their superannuation fund and/or financial adviser concerning any impacts their participation may have on their superannuation contributions and benefits prior to negotiating a purchased leave agreement.
- Ensuring that employee and employer superannuation contributions that are to be paid throughout the duration of a purchased leave agreement are calculated in accordance with the requirements of the employee's nominated superannuation fund.
- Ensuring that the employee is correctly classified in fortnightly or monthly returns to the superannuation fund.
- Ensuring employees are advised to seek advice from the Australian Taxation Office and/or a financial adviser regarding their individual taxation circumstances prior to finalising a purchased leave agreement with their employer.
- Providing for the likelihood that a purchased leave agreement will result in a change to the employee's taxable income and amount of tax payable and taking care to ensure that tax treatment of salary deductions accords with the relevant taxation determinations concerning the income tax treatment of deferred salary payments.
- Ensuring that employees are provided with information that allows them to calculate the salary deduction that will be required to fund their taking of purchased leave for the agreed period of time.

### ***Work period to be completed prior to commencing purchased leave period***

It is recommended that the work period necessary to "fund" any particular period of purchased leave be completed before any purchased leave is actually taken.

This does not preclude an arrangement with variable work periods. For example, four work periods of 12 weeks each followed by one week of purchased leave or two work periods of 24 weeks each followed by two weeks of purchased leave and so on.

If an employee takes a period of purchased leave before sufficient salary has been accumulated to fund the leave and then ceases employment, the agency will need to recover the monies owing, in accordance with legislative provisions and the purchased leave agreement.

### ***Recording of purchased leave and salary deductions***

A record should be kept to show at all times the amount of purchased leave and the amount of withheld salary available to all participating employees.

Leave entitlements accrue as per the relevant award and/or directives during the work period of a purchased leave agreement and as per Directive 6/06 concerning leave without salary credited for service during the purchased leave period of the purchased leave agreement.

### ***Salary increments and higher duties***

Salary increments accrue as per the relevant award, agreement or directives during the work period of a purchased leave agreement and as per Directive 6/06 on leave without salary credited for service during the purchased leave period of a purchased leave agreement.

Higher duties payments for work performed during the work period of a purchased leave agreement are to be based on an employee's normal rate of salary i.e. the rate of salary payable prior to any fortnightly purchased leave salary deductions being made.

### ***Allowances***

Allowances including on call, first aid and locality allowances are not payable during the purchased leave period.

### ***Overtime***

Subject to the relevant directive and award provisions, payment for all authorised overtime worked by employees in excess of their ordinary daily hours of duty or outside their ordinary spread of hours during the work period of a purchased leave agreement is based on the employee's normal rate of salary, i.e. the rate of salary payable prior to any fortnightly purchased leave salary deductions being made.

Similarly, if the employee is performing higher duties, payment of overtime is to be based on the minimum normal salary rate applicable to that higher classification as per the relevant directive and/or award.

### ***Other deductions from salary***

All compulsory and voluntary deductions are to continue to be made throughout the period of a purchased leave agreement (eg garnishees, court orders, insurance premiums, union membership etc) at the normal rate unless an employee arranges an appropriate authorisation from the body concerned to vary the amount of a particular deduction.

### ***Workers' compensation***

Employees receiving workers' compensation payments are not eligible to access a purchased leave agreement. Where an employee who is participating in a purchased leave agreement becomes entitled to workers' compensation, the agreement should be suspended effective from the first day of the period of incapacity and remain suspended until the last day of incapacity.

Any accrued purchased leave is to be taken other than during the period of entitlement to workers' compensation or paid out to the employee should they decide to formally withdraw from the purchased leave agreement.

## **Impact on other leave**

### ***Recreation, sick and long service leave***

Recreation, sick and long service leave entitlements accrue as per the relevant award, agreement or directives concerning recreation leave, sick leave and long



service leave throughout the work period and as per the relevant directive about leave without salary credited for service during the purchased leave period of a purchased leave agreement.

Agreed salary deductions apply to recreation, sick leave and long service leave taken during a purchased leave agreement. Recreation, sick and long service leave taken is deducted from accrued leave credits in the normal manner.

### ***Special leave on full salary***

Agreed salary deductions apply to any special leave on full salary taken in accordance with the relevant award, agreement or directive during the operation of a purchased leave agreement.

Paid special leave may be taken during the work period of a purchased leave agreement, however it is not available to employees during the purchased leave period of a purchased leave agreement.

### ***Parental leave***

An employee participating in a purchased leave agreement remains eligible to access parental leave as provided for under the relevant award and/or directive. Paid parental leave accessed during the work period of a purchased leave arrangement is subject to the agreed salary deductions.

Where an employee accesses unpaid parental leave during the period of a purchased leave agreement, the duration of the agreement is extended by the period of the unpaid parental leave taken unless the employee requests and is granted approval to withdraw from the purchased leave agreement as a result of changed circumstances due to the birth or adoption of a child.

### ***Bereavement leave***

Agreed salary deductions apply to any paid bereavement leave taken in accordance with the relevant directive. Paid bereavement leave may be taken during the work period of a purchased leave agreement, however it is not available to employees during the purchased leave period.

### ***Public holidays***

Purchased leave is inclusive of any public or statutory holidays that fall within the purchased leave period. Purchased leave is, however, exclusive of any public holidays that fall either immediately prior to the leave or immediately following its completion.

## **Further considerations for employees**

Participation in a purchased leave arrangement means that you have committed to having a certain amount of your salary put aside each fortnight to fund an agreed period of special leave without pay.

It may also mean:

- you can take extended leave when you need it while retaining your job level and most of your existing employment entitlements

- you are better able to balance your work, family and other personal commitments
- you have more time available to complete study commitments or pursue sports, or other lifestyle or recreational goals
- you can plan ahead financially and time-wise for a career break
- you are more productive and committed to your work because you now have time and sufficient resources set aside to meet important commitments outside of work

You may also:

- have less money coming in each fortnight and you may need to reorganise your budget and financial commitments to account for the changes in your financial circumstances
- need to change your taxation, superannuation and any salary sacrificing arrangements you may have in place
- need to reorganise the way you work to ensure you continue to meet any agreed performance outcomes and outputs.
- need to consider that your leave accruals may cease during periods of purchased leave

## **Potential benefits for departments and agencies**

Potential benefits for departments and agencies include improved capacity to:

- Shape the Queensland Government's reputation as a competitive, attractive and family friendly employer.
- Support employment security through retention of staff that may otherwise have resigned, retired or moved to other employment to meet pressing family or other personal commitments or goals.
- Assist employees to maintain a regular income and remain in employment while meeting life cycle based peaks in family and other life commitments.
- Encourage staff to take temporary opportunities to refresh or increase their skills, career commitment or motivation via other work, study, community involvement or leisure pursuits, knowing they can return to the same level of job and maintain most of their work related benefits on return.
- Support both young and mature age employees with full-time or part-time study aspirations to remain in employment on a regular income while they simultaneously learn and apply new skills and knowledge.
- Encourage mature aged workers to remain in employment longer (and thereby retaining important skills and corporate knowledge) through the opportunity to take regular extended breaks to help the transition to retirement or provide for greater involvement in community or family life.

- Reduce productivity losses due to employee stress and unplanned absences that may result from difficulties balancing work and family commitments.
- Increase operational flexibility where employees choose to use purchased leave in concert with lower workload periods.
- For on-the-job development of co-workers and other staff who take on extended relieving opportunities that may arise as a result of purchased leave arrangements.

## Possible barriers to implementation

There may be some concerns about how purchased leave impacts on the workplace that will need to be addressed to ensure successful implementation of purchased leave arrangements. Possible barriers to implementation include:

- Fear of opening the “floodgates” - Once a few people start taking purchased leave, everyone will be interested and there will be nobody on the job. Surveys of organisations offering such arrangements to date suggest that an upper limit of around only 15 percent of employees will be interested at any given time. The economic reality is that most people need a full-time salary to support themselves and their families in the longer term. Purchased leave is not an option for everyone and those who do choose to access it can be expected to only do so during a certain period of their life cycle eg when children are young, to complete a course of study over a pre-determined number of years, for a once in a lifetime travel opportunity, or to gradually reduce time at work and financial commitments in preparation for retirement.
- It is hard to manage flexible workers – It is not necessarily harder, just different. Managers concerned about how changes in working arrangements will work, are encouraged to consider trial introductions and to undertake to ascertain how well such arrangements are working in different operational areas. Assessment needs to include whether the arrangement is working for the individual concerned, the job, service delivery outcomes and for the individual’s co-workers. While it may take some more time initially to manage flexible workers, compare this to the time involved in repeatedly recruiting and training new staff.
- In a small team, purchased leave can only be approved for one employee, so it’ll be “first in best dressed” – In some work teams, there may be a number of employees who would like to access purchased leave so that they can care for their young children during all school holidays. If managers are faced with this possibility, the situation needs to be carefully and sensitively managed. Managers should open the lines of communication to make sure that employees are aware of organisational requirements and the need for employees to be flexible in cases where access to purchased leave has to be fairly shared within the group.
- Extra leave arrangements will decrease productivity – Studies to date suggest effective flexible work arrangements can lead to increases in employee productivity. This is generally credited to the higher energy levels that come from employees’ knowing that time is available to meet important family and other personal commitments. Reduced employee stress and improved morale and commitment to the workplace and tasks may result.

- Extra leave arrangements will result in additional work for those not participating – The work team needs to be open about this type of issue and come to formal agreement and recognition of any necessary reallocation of work. Every effort should be made to ensure all staff are treated fairly, that work is equitably distributed and that consequential opportunities for staff development are acted upon.
- Purchased leave arrangements are not for those who are serious about a career – The perception of employee commitment to work and career as demonstrated by working overly long hours and by having no evident outside commitments is still a strong feature of some organisational cultures. Job requirements need to be clearly linked to outputs and outcomes rather than “face time” on the job, in order to curb “long hours/low output” and “presenteeism” cultures. New ways of organising work may need to be developed in order to best meet the changing needs and expectations of both employees and employers. Spin offs of an improved workplace culture may include less stress related absences, increased employee productivity and motivation, reduced staff turnover and improved ability to attract and retain skilled employees.
- Why should the employer act like a bank or savings club for its employees’? The workplace and the employer/employee relationship continues to change and evolve. In the past century employer responsibilities have grown to include responsibilities for providing fair pay and attractive benefits (including superannuation or post retirement financial assistance for employees), making interesting and satisfying work available, providing access to continuous learning, providing a safe and healthy work environment and providing flexible work arrangements that help employees balance their personal and professional lives. In a competitive employment market the employer must test the market and provide the range of benefits and conditions necessary to attract and retain appropriately skilled employees.

## ATTACHMENT 1

### **Examples of Salary Deduction Calculations**

The fortnightly salary deduction is to be a fixed net amount per fortnight for each 12 month period of any purchased leave agreement based on the salary the employee is receiving at the time the agreement is negotiated or renegotiated.

#### **Example 1**

The calculation below outlines the general process for determining salary deductions. However, it should be noted that an individual employee's personal circumstances will need to be considered when calculating their salary deductions.

The effects of 6 weeks of purchased leave in a 12 month period for an employee at the classification level of AO5(1) as at 30 June 2006 would be as follows:

Standard fortnightly salary (gross)	=	\$2,153.60
Tax on standard fortnightly salary	=	524.00
Standard fortnightly salary (post tax)	=	<u>1,629.60</u>
Employee superannuation contribution of 5%	=	107.68
Standard fortnightly salary (post tax and super)	=	<u>1,521.92</u>
The employee purchases 6 weeks special leave without pay [ie 3 x standard fortnightly salary (post tax and super)]	=	4,565.76
Fortnightly salary deductions (to cover salary while taking purchased leave) [ie \$4,565.76 ÷ 26 fortnights]	=	175.60
Fortnightly salary during the life of the purchased leave Agreement [ie \$1,521.92 - \$175.60]	=	\$ 1,346.32

In this example, the employee's fortnightly salary (after tax and super) has been reduced from \$1,521.92 to \$1,346.32 over the life of the purchased leave agreement. The reduction means that the employee has agreed to exchange salary (in this case \$175.60 per fortnight) to cover their continued salary payments during the period of purchased leave. In other words, \$175.60 of his/her fortnightly salary is deferred so that s/he can continue to receive fortnightly payments whilst on purchased leave (ie special leave without pay). This also means that the employee's tax and superannuation contributions are not required to be paid out of the purchased leave payments, as they have already been paid.

## Example 2

This example relates to an employee with identical employment conditions to the employee in Example 1, with the exception that s/he salary sacrifices his/her superannuation contributions.

Standard fortnightly salary (gross)	=	\$2,153.60
Employee superannuation contribution at 5.88%	=	126.63
[NB: 5% is grossed up to 5.88% to account for contributions tax]		<u>          </u>
Standard fortnightly salary (post super)	=	2,026.97
Tax on standard fortnightly salary (post super)	=	484.00
Standard fortnightly salary (post super and tax)	=	<u>1,542.97</u>
The employee purchases 6 weeks special leave without pay [ie 3 x standard fortnightly salary (post super and tax)]	=	4,628.91
Fortnightly salary deductions (to cover salary while taking purchased leave) [ie \$4,628.91 ÷ 26 fortnights]	=	178.03
Fortnightly salary during the life of the purchased leave Agreement [ie \$1,542.97 - \$178.03]	=	\$ 1,364.94

In this example, the employee's fortnightly salary (after salary sacrificed super and tax) has been reduced from \$1,542.97 to \$1,364.94 over the life of the purchased leave agreement. The reduction means that the employee has agreed to exchange salary (in this case \$178.03 per fortnight) to cover their continued salary payments during the period of purchased leave. In other words, \$178.03 of his/her fortnightly salary is deferred so that s/he can continue to receive fortnightly payments whilst on purchased leave (ie special leave without pay). This also means that the employee's tax and superannuation contributions are not required to be paid out of the purchased leave payments, as they have already been paid.

In both of the above examples, fortnightly salary deductions would be paid into a separate employer account established for the purpose of accumulating net purchased leave salary deductions for later deferred payment or other access by participating employees.

Changes in salary that may occur as a result of a salary increment, promotion, transfer to a lower classification level or as a result of overtime or higher duties payment would be reflected in an adjustment to the gross salary paid to the employee during the work period of the purchased leave agreement but not normally to the net fortnightly purchased leave salary deduction.

Payment during the purchased leave period is based on the monies accumulated as a result of the fixed net fortnightly salary deductions rather than being based on the employee's gross fortnightly salary at the time of purchased leave taking.

Salary deductions for purchased leave arrangements of more than 12 months could be renegotiated every 12 months throughout the life of the purchased leave agreement to incorporate any permanent salary adjustments that have occurred in the preceding 12 month period into the fortnightly net salary deductions.

Temporary salary increases under Example 1 that occur due to higher duties payments would also not be included in the regular fortnightly salary deduction calculation unless the higher duties payment is to apply for the duration of a 12 month agreement or for each or any of the 12 month periods that make up a longer term agreement.

The employee receives the salary increment, higher duties or overtime payment as an increase to their gross salary while their net salary deductions for purchased leave purposes remain the same.

## ATTACHMENT 2

### ***Checklist for successful implementation***

#### **Departments and agencies**

- Obtain senior level endorsement and demonstrable support.
- Debunk myths and show people that purchased leave can work.
- Inform all eligible staff about availability and conditions.
- Include a statement in information for job applicants concerning availability.
- Make copies of the guidelines and local policies and procedures readily available on the Intranet and via other recognised employee information sources.
- Include information about purchased leave in induction programs.
- Post regular quick reminders to staff inviting applications.
- Encourage a positive co-operative attitude among staff and management to this and other flexible work and leave arrangements.
- Ensure applications for purchased leave are fully and fairly considered.
- Make sure the terms of each purchased leave agreement have been directly negotiated with the employee's manager or supervisor and are clearly understood by both the employee concerned and any affected co-workers.
- Make sure work assignments, performance goals and other relevant work expectations of participating employees and any affected co-workers are widely known and understood;
- Collect stories and statistics and evaluate how the arrangements are working or if they are not working, why not?

#### **Employees**

- Undertake financial planning prior to considering a purchased leave arrangement.
- Rethink the ways in which you carry out your work in order to ensure agreed performance outcomes are achieved during the operation of the purchased leave arrangement.
- Work with others to ensure service standards and your fellow workers are not negatively impacted upon.
- Honour your commitment to the agreed terms of your purchased leave agreement.