



CIRCULAR TO DEPARTMENTS AND AUTHORITIES NO. 8 OF 2011

**PUBLIC SERVICE AND GOVERNMENT OFFICERS GENERAL AGREEMENT 2011 –
IMPLEMENTATION GUIDELINES AND EXPLANATORY NOTES**

The Implementation Guidelines and Explanatory Notes are attached for the Public Service and Government Officers General Agreement 2011.

The guidelines cover both the General Agreement and the consequential changes to the Public Service Award 1992, and the Government Officers Salaries, Allowances and Conditions Award 1989.

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3 August 2011



Government of **Western Australia**
Department of **Commerce**

Labour Relations

**PUBLIC SERVICE AND GOVERNMENT
OFFICERS GENERAL AGREEMENT 2011,**

PUBLIC SERVICE AWARD 1992

and

**GOVERNMENT OFFICERS, SALARIES,
ALLOWANCES AND CONDITIONS AWARD
1989**

Implementation Guidelines

and

Explanatory Notes

2011

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The following Implementation Guidelines and Explanatory Notes (the Guidelines) provide information on existing, new and amended provisions negotiated for the Public Service and Government Officers General Agreement 2011, Public Service Award 1992 and Government Officers Salaries, Allowances and Conditions Award 1989. They replace the:

- 2008 Public Service General Agreement and Public Service Award Variation Guidelines and Explanatory Notes; and
- 2008 Government Officers Salaries, Allowances and Conditions General Agreement and Government Officers Salaries, Allowances and Conditions Award Variation Guidelines and Explanatory Notes.

The key Public Service and Government Officers General Agreement 2011 changes are summarised in **Attachment A**. The key changes to the Public Service Award 1992 and the Government Officers Salaries, Allowances and Conditions Award 1989 are summarised in **Attachment B**.

1. IMPLEMENTATION GUIDELINES

DEFINITIONS

1. In these Guidelines and Explanatory Notes:

- a) "ASA" means an agency specific agreement;
- b) "Applicable Award" is determined by the scope and resposdency of the PSA and GOSAC;
- c) "Commerce" means the Department of Commerce;
- d) "CSA" means the Civil Service Association of Western Australia Incorporated;
- e) "GA5 agreements" mean the agreements negotiated between Commerce, the Union and the relevant agencies, and registered in June/July 2011, including the following:
 - *Public Service and Government Officers General Agreement 2011;*
 - *Country High School Hostels Authority Residential College Supervisory Staff General Agreement 2011;*
 - *School Support Officers (Government) General Agreement 2011;*
 - *Electorate and Research Employees General Agreement 2011;*
 - *Department for Child Protection Agency Specific Agreement 2011;*
 - *Social Trainers General Agreement 2011;*
 - *Department of the Attorney General Jury Officers Agreement 2011;*
 - *Family Resource Employees and Parent Helpers General Agreement 2011;*
 - *Government Officers (Insurance Commission of Western Australia) General Agreement 2011; and*

- *Department of Corrective Services Youth Custodial Officers' General Agreement 2011.*
- f) "General Agreement" means the Public Service and Government Officers General Agreement 2011;
- g) "GOSAC" means the Government Officers Salaries, Allowances and Conditions Award 1989;
- h) "GOSAC GA" means the Government Officers Salaries, Allowances and Conditions General Agreement 2008;
- i) "Government officer" means a government officer within the meaning of the *Industrial Relations Act 1979*, employed by an employer party listed in Item (3) of Schedule 5 and covered by GOSAC;
- j) "PSA" means the Public Service Award 1992;
- k) "PSGA" means the Public Service General Agreement 2008;
- l) "Public service officer" means a public service officer or executive employee employed under Part 3 or Part 8, Section 100 of the *Public Sector Management Act 1994* or continuing as such by virtue of clause 4 (c) of Schedule 5 of that Act, and covered by the PSA;
- m) "PSC" means Public Sector Commission;
- n) "Replaced General Agreements" mean the Public Service General Agreement 2008 and the Government Officers Salaries, Allowances and Conditions General Agreement 2008;
- o) "Union" means the Civil Service Association of Western Australia Incorporated; and
- p) "WAIRC" means the Western Australian Industrial Relations Commission.

OVERVIEW

2. The new General Agreement was negotiated by Commerce on behalf of respondent employers, and the CSA representing the employees covered by the Agreement. The parties agreed that the outcomes of the General Agreement would form the basis for other related General Agreements.
3. The WAIRC Order for the General Agreement took effect from the date of registration which was 27 June 2011.
4. Salary increases which operate on and from specific dates are outlined at paragraph eight.
5. These Guidelines aim to facilitate understanding of the General Agreement and related Award variations.
6. A copy of the General Agreement, Award variations and this document can be accessed from the Labour Relations Division of the Department of Commerce's website at:

http://www.commerce.wa.gov.au/LabourRelations/Content/Public%20Sector/Public_Sector_General_Agreemen.html.

SALARY OUTCOMES

7. The General Agreement was registered on 27 June 2011 and took effect on and from that date.
8. The General Agreement provides for the following salary increases detailed in Clause 10 – Salaries, Schedule 2 – General Division Salaries and Schedule 3 – Specified Callings Salaries:
 - a) 3.75% on and from the date of registration;
 - b) 4.00% on and from 13 April 2012; and
 - c) 4.25% on and from 12 April 2013.
9. The salary increases apply on and from the dates specified, as opposed to the first pay period commencing on or after that date.
10. As provided by clause 10.2 of the General Agreement, employees employed at the date of registration are entitled to a payment equivalent to the additional salary that would have been received had the first increase of 3.75% been payable on and from 15 April 2011.
11. Employees whose employment ceased prior to 27 June 2011 are not entitled to the payment provided for by clause 10.2, or conditions under the General Agreement.
12. Fortnightly salaries shall be determined according to the annual salaries, calculated to four decimal points and rounded to the nearest one cent.

Arrears – Permanent and Fixed Term Contract Employment

13. Employees who have moved between employers respondent to the General Agreement on or after 15 April 2011 and before 27 June 2011 are eligible to receive the payment provided by clause 10.2 from their employing authority as at 27 June 2011, provided that the break between periods of employment was no more than one calendar week.
14. Employees who, on or after 15 April 2011 and before 27 June 2011, have moved from another WA Public Sector employer where they were employed under another industrial instrument to which the CSA was respondent, are eligible to receive the payment provided by clause 10.2 from their employing authority as at 27 June 2011, provided that the break between periods of employment was no more than one calendar week.

Arrears - Casual Employment

15. Casual employment is by the hour. There is no entitlement to the additional payment provided by clause 10.2 with respect to employment that occurred prior to registration of the General Agreement.

STATUTORY CONTRACTS OF EMPLOYMENT

16. For employees still covered by statutory contracts of employment in lieu of repealed workplace agreements, refer to Circular to Departments and Authorities No. 16 of 2002 – *Workplace Agreements - Transitional Provisions*, including the associated Policy Statement, which continues to have application.

CONDITIONS OF EMPLOYMENT

17. All conditions of employment contained in the General Agreement commence operation from the date of registration (27 June 2011).

2. EXPLANATORY NOTES

PART A

PUBLIC SERVICE AND GOVERNMENT OFFICERS GENERAL AGREEMENT 2011

These Guidelines and Explanatory Notes are not stand-alone documents. They are to be read in conjunction with the General Agreement and the applicable Awards. The General Agreement, read in conjunction with the applicable Award, provides the salaries and employment conditions of public service officers and government officers.

Amalgamation of the Public Service General Agreement 2008 and the Government Officers Salaries, Allowances and Conditions General Agreement 2008

1. The two principle CSA agreements, the PSGA 2008 and the GOSAC GA 2008, have been amalgamated into the Public Service and Government Officers General Agreement 2011 for administrative ease.
2. Aside from the new clauses negotiated between Commerce and the CSA, the amalgamated agreement contains a small number of differences to the clauses contained in the replaced General Agreements. The major differences are discussed below.

Definitions

3. A comparison of the replaced General Agreements revealed that in some instances both agreements defined the same concepts differently. This required the parties to either combine some definitions, or separate the definitions into two parts.
4. The definitions of "Public Sector" were combined into one definition, so that the term "Public Sector" is consistent for all employees covered by the 2011 General Agreement.
5. The definitions of "Agency" and "Employer" were split into paragraph (a), which applies to public service officers, and paragraph (b), applicable to government officers.
6. The definition of "Employee" is linked directly to the employee's award coverage, as the applicable Award is the primary instrument from which industrial entitlements are derived. Closely linked to this definition is the introduction of the term "Applicable Award", which is discussed below.

Cross-referencing

7. The term "Applicable Award" has been introduced into the General Agreement to recognise that employees will be covered by one of the two parent Awards, but not both.
8. For instances where the General Agreement cross-references different clause numbers of the applicable Awards, the clause is split into two parts. An example of this can be found in clause 14 - Part Time Employment of the General Agreement, where clause 14.1 (a) (i) refers to the applicable PSA clause, and clause 14.1 (a) (ii) refers to the applicable GOSAC Award clause.

Substantive differences in entitlements

9. There were three main differences between the PSGA 2008 and the GOSAC GA 2008, as follows:
 - a) the Fixed Term Contract Employment clause was located in the GOSAC GA only;
 - b) Special Casual Employment during parental leave provisions was located in the GOSAC GA only. This provision only applies to government officers under the 2011 General Agreement; and
 - c) the portability of personal leave entitlements.

Application and parties bound

10. Clause 5.2(a) of the Application and Parties Bound clause has been split into two parts to provide for the two groups of employees covered by the General Agreement; those employed under the PSA and those employed under the GOSAC Award.
11. Government officers listed in Schedule B of GOSAC have also been excluded from the scope of the General Agreement, consistent with the provisions of the GOSAC GA 2008. This provision is not applicable to public service officers.

Core conditions

12. The core conditions have been tabulated according to the applicable Award in order to accommodate the differences in clause numbering.

Personal Leave

13. Due to different Award cross-referencing, the provisions regarding war caused illnesses have been inserted into the General Agreement. An employee's entitlement to personal leave is now completely provided for within the General Agreement.

Schedule 5 – Parties to this General Agreement

14. Schedule 5 has been split into 3 items to clearly identify the union party and the employers who may employ under the applicable Awards.

Clause 1 - Title

15. This clause specifies the title of the General Agreement as the Public Service and Government Officers General Agreement 2011, which cancels and replaces the PSGA 2008 and the GOSAC GA 2008.
16. The General Agreement has been re-titled due to the amalgamation of the replaced General Agreements.

Clause 2 - Arrangement

17. All clauses and schedules of the General Agreement are listed. A number of new provisions have been added, including Annual Leave Loading, Employee Initiated Cash Out of Accrued Annual Leave and Christmas/New Year Closedown.
18. The replaced General Agreements' Parental Leave clause has been redrafted into three separate clauses – Maternity Leave, Adoption Leave and Other Parent Leave.

Clause 3 - Definitions

19. Definitions of key words in the General Agreement are specified. There are some additions to those continued from the replaced General Agreements. These are definitions for "Applicable Award", "Ordinary rate of salary" and "PSC".
20. Definitions which are not utilised in the General Agreement have been deleted, including "DOCEP", "DPC", "Employing Authority" and "Replaced General Agreement".
21. The definitions of "Agency", "Employee", "Employer", "General Agreement", "Agreement" and "Public Sector" have been varied as a consequence of the amalgamation of the replaced General Agreements.

Clause 4 - Purpose of General Agreement

22. The purpose of the General Agreement is to provide salary increases and a core set of employment conditions, and to allow for the negotiation of ASAs.

Clause 5 - Application and Parties Bound

23. This clause identifies the parties bound by the General Agreement and employees to whom the General Agreement applies.
24. The General Agreement is to be read in conjunction with the applicable Award. The General Agreement prevails to the extent of any inconsistencies.
25. The General Agreement preserves the provisions of the applicable Awards that deal with subject matter not otherwise dealt with by the General Agreement. It also confirms that any variations to these Awards made subsequent to registration of the Agreement will apply.
26. The clause refers to existing ASAs which continue in force when the General Agreement was registered, unless:
 - a) the ASA is replaced by a subsequent ASA; or
 - b) a party withdraws from an ASA.

Clause 6 - Term of General Agreement

27. The General Agreement was registered on 27 June 2011, and is effective from that date. It will expire on 1 April 2014.
28. The parties have agreed to re-open negotiations for a replacement General Agreement at least six months prior to expiry, with a view to implementing a replacement General Agreement on 2 April 2014.

Clause 7 - No Further Claims

29. The parties agree that there will be no further claims for salary increases or on matters contained in the General Agreement for the term of the General Agreement, except where specifically provided for.

Clause 8 - Core Conditions

30. Core employment conditions cannot be varied. The core employment conditions are:
- a) the terms and conditions provided for in the General Agreement, with the exception of clause 17 – Hours, provided an average of no more than 37.5 hours per week is required to be worked as ordinary hours; and
 - b) all the applicable Award clauses listed in clause 8 – Core Conditions of the General Agreement.
31. The core conditions have been tabulated in order to separate the provisions of the two applicable Awards.

Clause 9 - Agency Specific Agreements (ASAs)

32. This clause provides for ASAs to be made in certain circumstances provided they do not vary the core employment conditions referred to in General Agreement clause 8 – Core Conditions.
33. Except where the General Agreement identifies conditions as core, the provisions of ASAs prevail over the General Agreement and the applicable Award to the extent of any inconsistencies.
34. Where new ASAs are being considered, agencies are required to consult with Commerce and gain formal endorsement of negotiating parameters prior to the commencement of negotiations.
35. ASAs are to be negotiated with the union. Where agreement cannot be reached, either party may refer the matter to the WAIRC.

Clause 10 - Salaries

36. Annual salaries are contained in Schedules 2 and 3 of the General Agreement.
37. The fortnightly salary paid is to be calculated in accordance with clause 10.8 of the General Agreement.
38. The salary increases payable under the General Agreement apply from 27 June 2011, 13 April 2012 and 12 April 2013.
39. Clause 10.2 entitles employees employed at the date of registration (27 June 2011) to a payment equivalent to the additional salary that would have been received had the first increase of 3.75% been payable on and from 15 April 2011.
40. Clause 10.9 provides for the administration of the amount payable under clause 10.2 where, between 15 April 2011 and 27 June 2011, an employee has moved:
- a) between employers respondent to the General Agreement; or
 - b) from an employer respondent to another agreement to which the CSA is respondent.

Example 1

A public service employee commenced employment with the Department of Premier and Cabinet on 1 January 2009. They then commenced employment with the Small Business Development Corporation (SBDC) on 20 May 2011, and were a SBDC employee on 27 June 2011 (being the date of registration). If the break between periods of employment was not more than one calendar week, SBDC is responsible for paying the 3.75% increase on the salary received by the employee for the period 15 April 2011 to 27 June 2011. This also applies to a fixed term contract employee.

Example 2

An employee commenced with the Disability Services Commission on 30 August 2010, where they were employed under the Social Trainers General Agreement 2008 (being an industrial instrument to which the CSA is respondent). They then moved to the Department of Health on 2 June 2011, where they were employed under the Public Service General Agreement 2008, and were a Department of Health employee on 27 June 2011 (being the date of registration). If the break between periods of employment was not more than one calendar week, the Department of Health is responsible for paying the 3.75% increase on the salary received by the employee for the period 15 April 2011 to 27 June 2011. This also applies to a fixed term contract employee.

Example 3

A public service employee, employed by the Department of Transport on 3 March 2010, was a Department of Transport employee on the date of registration of the agreement – 27 June 2011. The employee then commenced employment with the Public Sector Commission on 28 June 2011. The Public Sector Commission does not physically implement the new General Agreement rates, or the payments due under clause 10.2, until 21 July 2011. In this scenario, the Department of Transport is responsible for paying the 3.75% increase on the salary received by the employee for the period 15 April 2011 to 27 June 2011. The Public Sector Commission is then responsible for back paying the new General Agreement rates from 28 June 2011 to 21 July 2011.

Example 4

The one calendar week break limit between periods of employment does not include periods of paid leave. For example, an employee may take/be paid out four week's annual leave at the end of their period of employment with Dental Health Services, then have another week off without leave before commencing employment with the Department of Premier and Cabinet. The employee will remain entitled to the payment available under clause 10.2 in this situation.

41. The payment provided by clause 10.2 includes both salary and any allowances paid to the employee during the period 15 April 2011 and 27 June 2011 such as shift work, higher duties and overtime.
42. Employees whose employment ceased prior to the date of registration of the General Agreement - 27 June 2011 - are not entitled to the payment provided by clause 10.2 of the General Agreement.

Clause 11 - Salary Packaging

43. Salaries as prescribed by Schedules 2 and 3 of the General Agreement are to be applied for the purposes of the salary packaging arrangements in the applicable Award.

Clause 12 – Recovery of Underpayments

44. This clause prescribes the process by which an employer must repay an underpaid employee. It does not, however, preclude the employee's legal right to pursue recovery of underpayment.

Clause 13 – Recovery of Overpayments

45. This clause prescribes the process by which an employer may recover overpayments from an employee. It does not, however, preclude the employer's legal right to pursue recovery of overpayment.

Clause 14 – Part Time Employment

46. This clause specifies that employees have the right to request to work on a part time basis and that the employer must give reasonable consideration to the request.
47. The intent of this clause is to provide all employees with access to part time employment, particularly those employees who have caring responsibilities, for example, for teenagers or elderly parents, or those employees who wish to phase their retirement.
48. These provisions are additional to an employee's right to work on a part time basis on their return from Maternity, Adoption or Other Parent Leave.
49. The onus is on the employer to demonstrate that there are grounds for refusing an employee's request. The reasons must also be put in writing.

Clause 15 – Fixed Term Contract Employment

50. This clause outlines the circumstances in which employees may be employed on fixed term contracts.
51. This clause was previously only included in the GOSAC GA 2008; it was not contained in the PSGA 2008. However, PSA clause 8 (5) largely reflects the provisions contained in the GOSAC GA, and has application to public service officers. The clause contained in the 2011 General Agreement applies to both public service officers and government officers.

Clause 16 - Working with Children Checks

52. This clause outlines an employer's responsibilities regarding the payment for working with children checks for their employees.

Clause 17 - Hours

Flexible Working Arrangements

53. Flexible working arrangements are the primary hours arrangement. They shall apply unless the employer otherwise specifies or the employee does not wish to work flexible hours. Core periods of work are not prescribed.

54. The availability of flexible working arrangements is not restricted to particular classification levels. However, the employer may limit access to and the operation of flexible working arrangements to ensure operational needs and customer service requirements of the agency are met. The employer shall not unreasonably limit access to flexible working arrangements. The 2011 General Agreement also specifies that the employer shall not unreasonably limit access to the banking of credit hours.
55. Flexible working arrangements provide for the right of employees to be compensated for additional hours required to be worked to meet operational and customer service requirements. It is not intended that flexible working arrangements be used to accrue periods of leave, except in the limited circumstances provided for in clause 34 – Christmas/New Year Closedown. Whilst flexible working arrangements are not for accruing periods of leave, an employer may approve an employee taking flexi leave in conjunction with periods of paid leave.
56. Approval of flexi leave should be in writing.
57. A flexitime roster may indicate minimum staffing and other requirements in respect to starting and finishing times to suit the operational needs of the agency.

Variations to Flexible Working Arrangements

58. The only core condition of employment in this clause is the restriction on the maximum average hours per week that may be required to be worked as ordinary hours – being 37.5 hours. This condition cannot be varied. Other conditions may, however, be varied.
59. Employers wishing to vary the flexible working arrangement to be observed are required to give one month's notice in writing to the agency, branch, section or employees to be affected by the change.
60. Examples of variations that are within the clause parameters include limiting access to and the operation of the flexible working arrangement [clause 17.7 (b)], requiring/not requiring a flexitime roster and arrangements where a new roster is to be utilised [clause 17.9 (a)].
61. Through an ASA the employer may introduce alternative flexible working arrangements, provided that an average of no more than 37.5 hours per week is required to be worked as ordinary hours. For example:
 - a) operational arrangements may require a settlement period of 8 weeks. The ordinary hours required to be worked would then be 300 (i.e. 37.5 x 8). Credit and banked hours are not included in calculating the average ordinary hours required to be worked each week;
 - b) changing the maximum of 37.5 credit hours in a settlement period [clause 17.11 (b)];
 - c) changing from 37.5 the number of hours that may be banked at any time [clause 17.11 (c)];
 - d) reducing the amount of flexi leave that may be taken in a settlement period [clause 17.14 (d)]; and
 - e) altering the maximum of 4 debit hours allowed at the end of a settlement period [clause 17.12 (a)].

Employee Initiated Span of Working Hours

62. The General Agreement provides employees with the capacity to request to work their ordinary hours outside the span of 7:00 a.m. to 6:00 p.m. and for employers to approve such requests.
63. Such agreements must:
- a) only be initiated at the employee's request;
 - b) be in writing; and
 - c) specify the duration of the agreement and the times during which ordinary hours may be worked.
64. An employer is required, on receipt of a written request from the union, to provide the union with the details of such agreements. It is therefore incumbent upon an agency to ensure written agreements are completed and the details retained.

Nine Day Fortnight

65. Nine day fortnights remain in the General Agreement but only in the limited circumstances where they have been preserved.
66. The General Agreement provides employers with the capacity to vary the day of the week on which an employee takes their special rostered day off. This is subject, however, to providing one month's written notice to the employee and a requirement on the employer to reasonably consider an employee's family circumstances and caring responsibilities before making such a decision.

Clause 18 – Out of Hours Contact

67. The formula for calculating Out of Hours Contact allowances is based on the current salary for a Level 3.1 general division employee. Consequently, the allowance will increase in line with future salary increases. The new rate applies from first pay period on or after the date of registration of the agreement – 27 June 2011.
68. Commuted allowances will need to be recalculated if they include out of hours contact allowances.

Clause 19 – Shift Work

69. The definition of "afternoon shift" has been included in the General Agreement, reflecting the definition contained in both of the applicable Awards.
70. Shift allowance is paid on an individual's salary other than for those employees with a salary below that of a general division employee Level 1.7. Such employees are entitled to the allowance that would be paid to a general division Level 1.7 employee.
71. The formula applies to a standard 7.5 hour shift. Pro rata adjustments still apply to weekday afternoon and night shifts of other than 7.5 hours duration consistent with clause 21 (3) (a) of the applicable Award.
72. Overtime on shifts stands alone and is paid at the prescribed penalty rate/s on the ordinary rate of salary.
73. There is no shift allowance paid for situations where employees are rostered to work but are then absent, for example, on personal leave.

Clause 20 – Overtime

74. In the replaced General Agreements, access to overtime was expanded to include Level 6.4 for general division employees and Level 3.4 for specified calling employees. Higher level employees may still, however, access the overtime provisions in the circumstances set out in clause 20.3 of the General Agreement.

Clause 21 - Personal Leave

75. On commencement of the operation of this clause on 30 July 2004, both sick and short leave ceased to exist for the purposes of the General Agreement. All existing sick leave credits (except for war caused illnesses) were converted to cumulative personal leave and recorded in hours.
76. As part of the amalgamation process, provisions regarding war caused illnesses have been inserted into the 2011 General Agreement, instead of the clause referring back to the applicable Award provisions. The General Agreement now contains an employee's full entitlement to personal leave and the clause does not need to be read in conjunction with an Award.

Reasons for Taking Personal Leave

77. The situations in which an employer may grant personal leave are outlined in clause 21.24.

Personal Leave Entitlement

78. Consistent with the provisions of the *Minimum Conditions of Employment Act 1993*, the General Agreement provides that in an anniversary year employees are entitled to access a minimum of 75 hours for leave due to illness or injury, and also for carer's leave [clause 21.11].

Application for Leave

79. Leave forms are required to reflect the reason for the leave.
80. Each application for personal leave should be considered on its own merits. The form of evidence to satisfy a reasonable person of the entitlement will depend upon the circumstances. For example, evidence for leave for illness or injury to satisfy a reasonable person could be in the usual form of an appropriate medical certificate detailed as unfit for duty or with the nature of the illness. Alternatively, written advice from a physiotherapist or dentist may be sufficient. A medical certificate may not necessarily be required if the employer is satisfied that the employee was ill or injured.
81. In general, supporting evidence is not required for single or two consecutive day absences. In addition, the previous Award requirement for a medical certificate after an aggregate of 5 days sick leave in a credit year generally no longer applies. However, where the employer has good reason to believe that the absence may not be reasonable or legitimate, the employer may request evidence be provided. The employer must provide the employee with reasons for requesting the evidence.
82. Supporting evidence provided to the employer must be retained in accordance with the agency record keeping plan.
83. The evidence must cover the entire period of the absence.

84. Personal leave will not be granted where the personal illness is attributable to an employee's serious and wilful misconduct in the course of the employee's employment. This reflects the *Minimum Conditions of Employment Act 1993*.

Personal Leave on Half Pay and Without Pay

85. In exceptional circumstances, the employer may approve the conversion of an employee's personal leave credits to half pay to cover an absence on personal leave due to illness or injury. Employees have responsibility to clarify the financial implications of such an action on their personal circumstances.
86. Employees who have exhausted all personal leave entitlements and are ill or injured may apply for personal leave without pay. Employees are required to complete the necessary application and produce medical evidence to satisfy a reasonable person. To determine the effect on salary and leave entitlements of personal leave without pay, apply "Sick Leave Without Pay" as outlined in Administrative Instruction 610 - *Effect on Grants of Leave and Period of Suspension on Salary and Leave Entitlements*.

Effect of Grants of Leave on Personal Leave Entitlements

87. To determine the effect on personal leave entitlements of various types of leave granted, instead of "Sick Leave Credits" read "Personal Leave Credits" in Administrative Instruction 610 - *Effect on Grants of Leave and Period of Suspension on Salary and Leave Entitlements*.

Agency Policies

88. Agencies should have policies consistent with this clause that address such matters as:
- a) defining the respective roles and responsibilities of employees, managers and Human Resources;
 - b) monitoring, analysing and reporting absence levels and trends;
 - c) notification of personal leave absences;
 - d) when evidence is required;
 - e) what form of evidence is required;
 - f) who makes decisions about the requirement for evidence;
 - g) how to deal with requirements for evidence, and its retention;
 - h) ensuring new and existing employees and managers are aware of the policies; and
 - i) providing training and advice to support the application of personal leave.

Portability

89. In the General Agreement, the Portability provisions have been amended to take into account the different portability of sick leave entitlements available to employees under the two replaced General Agreements.
90. Clause 21.42 applies to employees who are employed under the PSA, whilst clause 21.43 applies to employees who are employed under the GOSAC Award.

Travelling Time for Regional Employees

91. Payment for travelling time is at the ordinary time rate that would have applied had the employee been at work and includes any higher duties and district allowance. Overtime and shift penalties are not included as part of the travelling time rate. The travelling time is treated as service for all purposes, i.e. similar to actual working time.
92. There is no prior qualifying time required for regional employees to access this travelling time, i.e. the full 37.5 hours are accessible from the date of commencement in the region.
93. Travelling time in excess of the prescribed 37.5 hours per twelve months may be approved by an employer, on a case-by-case basis, and in the context of fair and equitable application of the provision.
94. All travelling time is subject to the evidentiary requirements outlined in the clause 21.29 to 21.33.
95. Employees transferring within or between regions without any break of service (as applied in awards generally) retain their original regional anniversary date for the purpose of establishing their travelling time entitlements.
96. The 240 km minimum is the radius from the employee's headquarters, not the actual road, sea or air travel distance undertaken. This is consistent with the principle and application of the metropolitan 50 km radius.
97. Travelling time must not be debited against personal leave entitlements. Agencies should separately identify the utilisation of travelling time, i.e. create a separate pay code for this provision.
98. Employees not eligible for this travelling time entitlement include:
 - a) casual employees;
 - b) employees on any form of leave without pay including personal leave without pay;
 - c) employees on workers compensation; and
 - d) metropolitan based employees attending medical facilities in regional areas.

Clause 22 – Purchased Leave 42/52 Arrangement

99. The General Agreement now provides that any purchased leave not taken during the calendar year in which it was purchased will be paid out in February of the following calendar year.
100. The General Agreement clarifies that this untaken purchased leave is to be paid out at the rate at which it was purchased.
101. In order to access purchased leave, employees must:
 - a) satisfy the agency's accrued leave management policy;
 - b) take one week's annual leave if they are purchasing nine week's leave; or
 - c) take two week's annual leave if they are purchasing ten week's leave.

These provisions seek to prevent the accrual of excessive amounts of annual leave. An employer does have the discretion to allow an employee to access purchased leave without first taking one or two week's annual leave.

Clause 23 – Maternity Leave

102. The Parental Leave clause of the PSGA and GOSACGA have now been replaced by:
- a) clause 23 - Maternity Leave;
 - b) clause 24 - Adoption Leave; and
 - c) clause 25 - Other Parent Leave.

Transitional Arrangements

103. The new clauses came into effect as of 27 June 2011. Any employee that has proceeded on Parental Leave will now be covered by the new clauses and will be treated as having met the requirements for eligibility for the new clauses.

Maternity Leave

104. This clause covers pregnant employees who give birth and provide parental care to that child.
105. All references to a "child" in the Maternity Leave clause should be read as including "children" of a multiple birth.
106. If the employee gives birth to more than one child at one time, the employee is entitled to the period of Maternity Leave as they would have received had only a single child had been born.

Eligibility

107. An employee must have completed 12 months continuous service in the Western Australian Public Sector as defined under the *Public Sector Management Act 1994* immediately preceding the Maternity Leave in order to receive paid Maternity Leave.
108. Prior service outside the WA Public Sector, such as with the Commonwealth public service, is not recognised as service towards the 12 month qualifying period for paid Maternity Leave. While this and other service outside the WA Public Sector may be recognised for the purposes of annual or long service leave accrual, the Agreement only allows recognition of service with the WA Public Sector for the purposes of paid Maternity Leave.
109. Where an employee is on a fixed term contract and takes Maternity Leave (paid or unpaid), the leave cannot extend beyond the end of the contract. The employee's employment will cease at the end of the contract. Fixed term contract employees on Maternity Leave at half pay whose contracts expire prior to completing their extended leave would only be entitled to the leave which was taken prior to the expiration of the contract.
110. An employee who has previously taken paid Maternity Leave is eligible to take another period of paid Maternity Leave without accruing another 12 months continuous service. Such employees are not required to conclude their Maternity Leave or leave without pay taken in conjunction with Maternity Leave and as a result do not need to resume duties.

111. An employee on leave without pay unrelated to Maternity Leave must resume duties prior to being entitled to paid Maternity Leave. An employee should resume duties such that they undertake meaningful work for the employer. Therefore, returning for a short period such as one day may not constitute resuming duty in order to qualify for a period of paid Maternity Leave.
112. Pregnant casual employees are only entitled to unpaid Maternity Leave and must meet the requirements of clause 23.3 (b).
113. Any reference in the Maternity Leave clause that allows an employee to utilise paid leave entitlements such as annual leave do not extend to eligible casual employees, who are paid a loading in lieu of leave entitlements.

Notice requirements

114. An employee who wishes to commence paid or unpaid Maternity Leave must provide their employer with no less than eight weeks notice in writing.
115. An employee is not in breach of the clause if the required eight weeks' notice is not given because the birth of the child takes place before the time the employee intended to take the leave.
116. An employee who chooses to vary the period of leave taken must give four weeks' notice of their intention to do so.

General Entitlement to Maternity Leave

117. An eligible employee is entitled to 52 weeks unpaid Maternity Leave.
118. Subject to the requirements of the Maternity Leave clause, an eligible employee is entitled to 14 weeks paid Maternity Leave that will form part of the 52 week entitlement.
119. Paid Maternity Leave is inclusive of any public holidays or repealed public service days in lieu falling within that time.
120. Employees may only access Maternity Leave in one continuous period. Where less than the standard Maternity Leave is taken, the unused portion cannot be preserved in any way for use at a later date.
121. Where Maternity Leave is shared with Other Parent Leave between parents of the same child, each employee can only access their share of the leave in one continuous period. This effectively means that Maternity Leave, Other Parent Leave or Adoption Leave cannot be shared between parents on a day-to-day, week-by-week or month-by-month basis.
122. Notwithstanding paragraph 121:
 - a) An employee who meets the exceptional circumstances in clause 23.6 (d) may take paid Maternity Leave in more than one continuous period. This provision does not apply to situations where a mother returns to work or takes annual leave following the child's birth.
 - b) An employee who undertakes special temporary or casual employment during unpaid Maternity Leave is able to take their unpaid Maternity Leave in more than one period, subject to the provisions of clause 23.13.

123. Paid Maternity Leave, Adoption Leave and Other Parent Leave may be shared between the partners/parents assuming the role of primary caregiver. Where both parents work in the WA Public Sector, the total paid Maternity Leave, Adoption Leave or Other Parent Leave entitlement provided to the employees shall not exceed the quantum provided to a single person in clause 23.5 (b) or its half pay equivalent. This applies to all employees of the WA Public Sector, regardless of Award coverage.

Payment for Paid Maternity Leave

124. Subject to paragraph 126, an employee is to be paid according to their ordinary working hours at the time of commencement of Maternity Leave. This provision applies where the employee may have changed employment status – for example, from part time to full time – immediately prior to commencing paid Maternity Leave.
125. Paid Maternity Leave will be paid on a pro-rata basis for part time employees. A part time employee is to be paid either the average hours worked over the preceding 12 months; or their ordinary working hours at the time of commencement of Maternity Leave, excluding shift and weekend penalties, whichever is the greater.
126. Any salary increases that fall due prior to or during a period of paid Maternity Leave will be incorporated into the rate payable from the date of the increase.
127. Where an employee has not resumed duty following the conclusion of their Maternity Leave and the employee is entitled to a subsequent period of paid Maternity Leave, the employee's paid Maternity Leave is to be paid according to the employee's status and classification at the time of commencing the original period of Maternity Leave.
128. Special temporary or casual employment undertaken by the employee has no effect on the provisions of paragraph 127 notwithstanding that the employee may have undertaken special temporary or casual work at a different classification or on a different basis to their substantive position.
129. Higher duties allowance is payable on the first four weeks of paid Maternity Leave if the employee has been in receipt of a higher duties allowance for a period of 12 months continuous service immediately prior to commencing Maternity Leave.

Commencement of Maternity Leave

130. A pregnant employee may commence a period of paid Maternity Leave any time up to six weeks before the expected date of the birth.
131. The clause does not require a pregnant employee who wishes to work during the six weeks prior to the expected date of the birth to provide a certificate from a medical practitioner certifying that she is fit for work. The clause does provide the employer with the discretion to request such a medical certificate if the employer has reason to believe that the employee continuing to work in that timeframe would render a danger to themselves, fellow employees or the public.
132. If the pregnancy of an employee terminates by other than the birth of a live child not earlier than twenty weeks before the expected date of the birth, an eligible employee is still entitled to the paid Maternity Leave.
133. If the pregnancy has not progressed to 20 weeks from the expected date of birth an employee can access personal leave as required or certified by a medical practitioner.
134. The period of paid Maternity Leave must be concluded within 12 months after the birth of the child. An employer does have discretion, in exceptional circumstances, to

allow an employee to take a period of paid Maternity Leave that will result in the employee being on paid Maternity Leave more than 12 months after the birth of the child. This may occur for example, where a child requires a lengthy hospitalisation following birth which makes it impossible for an employee to take their period of paid Maternity Leave within the required timeframe.

135. If an employer does allow an employee to take a period of paid Maternity Leave more than 12 months after the birth of the child, the period of paid Maternity Leave must not exceed the quantum prescribed at clause 23.5 (b). The employer may also require evidence that would satisfy a reasonable person that the circumstances warrant allowing the employee to take their period of paid Maternity Leave more than 12 months after the birth of the child.

Modification of Duties and Transfer to a Safe Job

136. Subject to a number of requirements, a pregnant employee is entitled to work on a part time basis during her pregnancy. She may work in one or more part time periods depending upon the demands of her pregnancy. This entitlement must be read in conjunction with the part time employment provisions contained in the applicable Award and the General Agreement.
137. The entitlement in clause 23.8 (e) to a paid absence where an employer does not think it is reasonably practicable to modify an employee's duties or provide an employee with a transfer to a safe job, is available to all pregnant employees including eligible casual employees as defined.
138. This paid absence entitlement is in addition to other leave entitlements and a pregnant employee who proceeds on a paid absence will have no change to her terms and conditions of employment. This means, if an employee is certified as either being unfit for work, or fit for work but it is inadvisable for her to continue in her present position in the period prior to proceeding on Maternity Leave, she is entitled to:
- a) have the duties of her position modified;
 - b) be transferred to a safe job at the same classification level; or
 - c) paid absence as per clause 23.8 (e).
139. An entitlement to paid absence under these circumstances applies irrespective of any award or agreement requirement for a pregnant employee to proceed on Maternity Leave six weeks prior to the expected date of birth or otherwise.
140. Eligible casual employees are entitled to proceed on a paid absence as provided for under clause 23.8 (e) if it is not reasonably practicable for the employer to modify the employee's duties or to transfer the casual employee to a safe job.
141. If the eligible casual employee proceeds on a paid absence under clause 23.8 (e) the employer must pay the amount that the employee would reasonably expect to be paid if the employee had worked during that period.

Interaction with Other Leave Entitlements

142. An employee may choose to substitute part of the 52 weeks unpaid Maternity Leave with accrued annual leave or long service leave. If the employee does choose to do this, the leave substituted will form part of the Maternity Leave quantum available and will not increase the maximum Maternity Leave available.

143. Personal leave is not payable on a period of paid or unpaid Maternity Leave.

Extended Unpaid Maternity Leave

144. An employee can make a request to extend their unpaid Maternity Leave by up to two years. If granted this would allow an employee up to three years unpaid Maternity Leave on the birth of a child.

Replacement Employee

145. The incumbent employee takes precedence over the replacement employee. As a result the employer shall inform a replacement employee of the tenure of the position prior to engagement. Should the incumbent employee decide to return to work earlier than expected, the employer must accommodate their return subject to the employee providing the required period of notice.

Employment During Unpaid Maternity Leave

146. Where both the employer and employee agree, an employee may be employed on a special temporary or casual basis during a period of unpaid parental leave or leave without pay taken in conjunction with unpaid parental leave. An employee may not be employed during any period of paid leave taken concurrently with a period of unpaid parental leave.

147. Public service employees who are engaged on Special Temporary Employment can only be employed in connection with their substantive office, post or position. As a result public service employees:

- can only undertake special casual employment if they are employed substantively as an eligible casual employee; and
- can undertake temporary employment in a higher duties position as they retain a connection with their substantive office, post or any other position in connection with their substantive office, post or position.

148. Employees other than public service officers are not limited to working only in connection with their substantive position. Subject to the parties' agreement, employees other than public servants may be employed in special temporary or casual employment in any position on a full time, part time or casual basis. They must, however, be employed at the level commensurate to the level of the available position.

149. Special temporary or casual employment is treated as part of the employee's period of unpaid Maternity Leave or leave without pay related to Maternity Leave unless the employee provides written notice to their employer that they will be extending their period of leave. If written notice is provided, the employee's period of leave can be extended by a period up to or equal to the total period of time they were engaged in temporary or casual employment.

150. Any unused portion of unpaid Maternity Leave or leave without pay must be recommenced immediately following the completion of a period of temporary or casual employment. If the unused portion of Maternity Leave or leave without pay is not recommenced, it will not be preserved.

151. Except for employees undertaking special casual employment, periods of temporary employment undertaken shall count as qualifying service for all purposes under the applicable Award and the General Agreement. Such periods of temporary employment shall therefore, for example, count as service with respect to annual, sick or personal, and long service entitlements, and salary increments.

152. Notwithstanding paragraph 151, where a casual employee would ordinarily receive an entitlement under the applicable Award or the General Agreement, periods of special casual employment shall also count as qualifying service.
153. Any temporary or casual employment undertaken by an employee shall have no adverse effect on their entitlements with respect to their substantive position. For example, where an employee undertakes temporary employment on a part time basis or at a lower classification level to their substantive position, the employee's entitlement to annual leave shall not be diminished.
154. When considering the use of special temporary or casual employment, employers should give consideration to the impact on the employment of any replacement employee.
155. An employee is not to be engaged by another employer whilst on Maternity Leave unless authorised to do so by the employing authority prior to Maternity Leave. Maternity Leave is provided so that an employee can provide care to a child during the time in which the employee would have otherwise been at work. It is not a period of leave without pay where the employee may undertake work with another employer.

Return to Work on Conclusion of Maternity Leave and Right to Revert

156. Employees returning to work on the conclusion of Maternity Leave have the right to return, not simply the right to request to return to work, on a modified basis. This includes working part-time, working fewer days and/or fewer hours or working different days and/or at different times than the employee was working before proceeding on Maternity Leave. This right must be read in conjunction with the part time employment provisions of the applicable Award and the General Agreement.
157. An employee who has returned to work on a modified basis on the conclusion of Maternity Leave has the right to request a reversion to working on the same basis as they worked either immediately before starting Maternity Leave or on a full time basis at the same classification level.
158. Employers must agree to a request to revert unless there are reasonable grounds not to agree. Reasonable grounds for refusal and an employee's right to seek enforcement are set out in clause 23.14 (e) of the Maternity Leave clause.
159. An employer must provide an employee with written notice of their decision concerning an employee's request to revert. If the employee's request is refused, the employer must set out the reasons for the refusal in the written notice.

Effect of Maternity Leave on the Contract of Employment

160. Where an eligible casual employee becomes a permanent or fixed term contract employee with the same WA Public Sector employer within three months of completing their last period of casual employment, their service as an eligible casual employee will count as qualifying service for paid Maternity leave.

Clause 24 – Adoption Leave

161. Adoption Leave applies to an employee who legally adopts a child or children.
162. All references to a "child" in the Adoption Leave clause should be read as including "children" of a multiple adoption.

163. If the employee adopts more than one child at one time, the employee is entitled to the period of Adoption Leave as they would have received had only a single child been adopted.

Eligibility

164. Only an employee who legally adopts a child is entitled to Adoption Leave.
165. An employee must have completed 12 months continuous service in the WA Public Sector, as defined under the *Public Sector Management Act 1994*, immediately preceding the Adoption Leave in order to receive paid Adoption Leave.
166. Prior service outside the WA Public Sector, such as with the Commonwealth public service, is not recognised as service towards this 12 month qualifying period for paid Adoption Leave. While this and other service outside the WA Public Sector may be recognised for the purposes of annual or long service leave accrual, the General Agreement only allows recognition of service with the WA Public Sector for the purposes of paid Adoption Leave.
167. Where an employee is on a fixed term contract and takes Adoption Leave (paid or unpaid), the leave cannot extend beyond the end of the contract. The employee's employment would cease at the end of that contract. Fixed term contract employees on Adoption Leave at half pay whose contracts expire prior to completing their extended leave would only be entitled to the leave which was taken prior to the expiration of the contract.
168. An employee who has previously taken paid Adoption Leave is eligible to take another period of paid Adoption Leave without accruing another 12 months continuous service and without concluding their Adoption Leave or leave without pay taken in conjunction with Adoption Leave and as a result do not need to resume duties.
169. An employee on leave without pay unrelated to Adoption Leave must resume duties prior to being entitled to paid Adoption Leave. An employee should resume duties such that they undertake meaningful work for the employer. Therefore, returning for a short period such as one day may not constitute resuming duty in order to qualify for a period of paid Adoption Leave.
170. Eligible casual employees are only entitled to unpaid Adoption Leave and must meet the requirements of clause 24.3 (b). Any reference in the Adoption Leave clause that allows an employee to utilise paid leave entitlements such as annual leave do not extend to eligible casual employees. Casual employees are paid a loading in lieu of leave entitlements.

Notice requirements

171. An employee who wishes to commence paid or unpaid Adoption Leave must provide their employer with no less than eight weeks notice in writing.
172. An employee is not in breach of the clause if the required notice is not given because the placement of the child takes place before the time the employee intended to take the leave.
173. An employee who chooses to vary the period of leave taken must give four weeks' notice of their intention to do so.

General Entitlement to Adoption Leave

174. An eligible employee is entitled to 52 weeks unpaid Adoption Leave.
175. Subject to the requirements of the Adoption Leave clause an eligible employee is entitled to 14 weeks paid Adoption Leave that will form part of the 52 week entitlement.
176. Paid Adoption Leave is inclusive of any public holidays or repealed public service days in lieu falling within that time.
177. Employees may only access Adoption Leave in one continuous period. Where less than the standard Adoption Leave is taken, the unused portion cannot be preserved in any way for use at a later date.
178. Where Adoption Leave is shared with Other Parent Leave between parents of the same child, each employee can only access their share of the leave in one continuous period. This effectively means that Maternity Leave, Other Parent Leave or Adoption Leave cannot be shared between parents on a day-to-day, week-by-week or month-by-month basis.
179. Notwithstanding paragraph 178, an employee who undertakes special temporary or casual employment during unpaid Adoption Leave is able to take their unpaid Adoption Leave in more than one period, subject to the provisions of clause 23.13 as it applies to Adoption Leave.
180. Paid Adoption Leave, Maternity Leave and Other Parent Leave may be shared between the partners/parents assuming the role of primary caregiver. Where both parents work in the WA Public Sector, the total paid Maternity Leave, Adoption Leave or Other Parent Leave entitlement provided to the employees shall not exceed the quantum provided to a single person in clause 23.5 (b) or its half pay equivalent. This applies to all employees of the WA Public Sector, regardless of Award coverage.

Payment for Paid Adoption Leave

181. Subject to paragraph 183, an employee is to be paid according to their ordinary working hours at the time of commencement of Adoption Leave. This provision applies where the employee may have changed employment status – for example, from part time to full time – immediately prior to commencing paid Adoption Leave.
182. Paid Adoption Leave will be paid on a pro-rata basis for part time employees. A part time employee is to be paid either the average hours worked over the preceding 12 months; or their ordinary working hours at the time of commencement of Adoption Leave, excluding shift and weekend penalties, whichever is the greater.
183. Any salary increases that fall due prior to or during a period of paid Adoption Leave will be incorporated to the rate payable from the date of the increase.
184. Where an employee has not resumed duty following the conclusion of their Adoption Leave and the employee is entitled to a subsequent period of paid Adoption Leave, the employee's paid Adoption Leave is to be paid according to the employee's status and classification at the time of commencing the original period of Adoption Leave.
185. Special temporary or casual employment undertaken by the employee has no effect on this, notwithstanding that the employee may have undertaken special temporary or casual work at a different classification or on a different basis to their substantive position.

186. Higher duties allowance is payable on the first four weeks of paid Adoption Leave if the employee has been in receipt of a higher duties allowance for a period of 12 months continuous service immediately prior to commencing Adoption Leave.

Commencement of Adoption Leave

187. An employee can commence Adoption Leave on the placement of the adopted child.
188. Notwithstanding paragraph 187, an employee may commence Adoption Leave on the day which the employee starts any travel that is reasonably necessary to take custody of the child for the adoption.

Other Provisions

189. The Adoption Leave clause refers to Maternity Leave in relation to the following provisions:
- a) clause 23.9 – Interaction with Other Leave Entitlements;
 - b) clause 23.10 – Extended Unpaid Maternity Leave;
 - c) clause 23.11 – Communication During Maternity Leave;
 - d) clause 23.12 – Replacement Employee;
 - e) clause 23.13 – Employment During Unpaid Maternity Leave;
 - f) clause 23.14 – Return to Work on Conclusion of Maternity Leave; and
 - g) clause 23.15 – Effect of Maternity Leave on the Contract of Employment.
190. The Guidelines as provided for under Maternity leave have the same application as it applies to Adoption Leave for the above clauses.

Clause 25 – Other Parent Leave

Eligibility

191. The “Other Parent” must be the primary caregiver of the child that provides principal care for the majority of the time.
192. The definition of “Other Parent” at clause 25.1 (b) (i) states the “other parent” may or may not be the biological parent, and does not necessarily have to be the partner of the birth parent and is the primary care giver of the child.” The clause now clarifies that the other parent can be the biological parent of the child who may or may not be the partner of the birth parent. The intent of the clause is to take into consideration that a biological parent, where they are not the partner of the birth parent, may take on the role of primary care giver. The intent of the clause is not to expand the entitlement to any person. The “Other Parent Leave” is limited to the biological parent or the partner of the birth or adoptive parent who will have a parental relationship with the child and take on parenting responsibilities as the primary caregiver.
193. An employee must have completed 12 months continuous service in the WA Public Sector as defined under the *Public Sector Management Act 1994* immediately preceding the Other Parent Leave in order to receive paid Other Parent Leave.
194. Prior service outside the WA Public Sector, such as with the Commonwealth public service, is not recognised as service towards the 12 month qualifying period for paid

Other Parent Leave. While this and other service outside the WA Public Sector may be recognised for the purposes of annual or long service leave accrual, the Agreement only allows recognition of service with the WA Public Sector for the purposes of paid Other Parent Leave.

195. Where an employee is on a fixed term contract and takes Other Parent Leave (paid or unpaid), the leave cannot extend beyond the end of the contract. The employee's employment would cease at the end of the contract. Fixed term contract employees on Other Parent Leave at half pay whose contracts expire prior to completing their extended leave would only be entitled to the leave which was taken prior to the expiration of the contract.
196. With respect to paid Other Parent Leave only, the employer may require an employee to provide confirmation of their primary care giver status. Where the employer requires the employee to confirm their status as the primary care giver, the employee is to provide the employer with evidence that would satisfy a reasonable person of the entitlement to Other Parent Leave.
197. Confirmation of primary care giver status may be provided by, but is not limited to:
 - a) a statutory declaration containing sufficient details to satisfy a reasonable person of the employee's entitlement to paid parental leave;
 - b) a medical certificate addressing any incapacity the child's mother or adoptive parent may have to be its primary care giver;
 - c) details of any leave being taken by the child's mother or adoptive parent;
 - d) details of the mother or adoptive parent's working and study arrangements; and/or
 - e) details of the child's care arrangements.
198. Other Parent Leave (paid or unpaid) cannot be used to care for a child other than the newly born or newly adopted child. This means that the employee cannot take Other Parent Leave to care for another child or children because the birth parent or other adoptive parent is caring for the newly born or adopted child.
199. An employee on leave without pay unrelated to Other Parent Leave must resume duties prior to being entitled to paid Other Parent Leave. An employee should resume duties such that they undertake meaningful work for the employer. Therefore, returning for a short period such as one day may not constitute resuming duty in order to qualify for a period of paid Other Parent Leave.
200. Eligible casual employees are only entitled to unpaid Other Parent Leave and must meet the requirements of clause 25.3 (b). Any reference in the Other Parent Leave clause that allows an employee to utilise paid leave entitlements such as annual leave do not extend to eligible casual employees. Casual employees are paid a loading in lieu of leave entitlements.

Notice requirements

201. An employee who wishes to commence paid or unpaid Other Parent Leave must provide their employer with no less than eight weeks notice in writing.
202. An employee is not in breach of the clause if the required notice is not given because the birth of the child takes place before the time the employee intended to take the leave.

203. An employee who chooses to vary the period of leave taken must give four weeks' notice of their intention to do so.

General Entitlement to Other Parent Leave

204. An eligible employee is entitled to 52 weeks unpaid Other Parent Leave.
205. Subject to the requirements of the Other Parent Leave clause an eligible employee is entitled to 14 weeks paid Other Parent Leave that will form part of the 52 week entitlement.
206. Paid Other Parent Leave is inclusive of any public holidays or repealed public service days in lieu falling within that time.
207. Employees may only access Other Parent Leave in one continuous period. Where less than the standard Other Parent Leave is taken, the unused portion cannot be preserved in any way for use at a later date.
208. Where Maternity Leave is shared with Other Parent Leave between parents of the same child, each employee can only access their share of the leave in one continuous period. This effectively means that Maternity Leave, Other Parent Leave or Adoption Leave cannot be shared between parents on a day-to-day, week-by-week or month-by-month basis.
209. Notwithstanding paragraph 208, an employee who undertakes special temporary or casual employment during unpaid Other Parent Leave is able to take their unpaid Other Parent Leave in more than one period, subject to the provisions of clause 23.13 as it applies to Other Parent Leave.
210. Paid Maternity Leave, Adoption Leave and Other Parent Leave may be shared between the partners/parents assuming the role of primary caregiver. Where both parents work in the WA Public Sector, the total paid Maternity Leave, Adoption Leave or Other Parent Leave entitlement provided to the employees shall not exceed the quantum provided to a single person or its half pay equivalent. This applies to all employees of the WA Public Sector, regardless of Award coverage.

Payment for Paid Other Parent Leave

211. Subject to paragraph 213, an employee is to be paid according to their ordinary working hours at the time of commencement of Other Parent Leave. This provision applies where the employee may have changed employment status – for example, from part time to full time – immediately prior to commencing paid Other Parent Leave.
212. Paid Other Parent Leave will be paid on a pro-rata basis for part time employees. A part time employee is to be paid either the average hours worked over the preceding 12 months; or their ordinary working hours at the time of commencement of Other Parent Leave, excluding shift and weekend penalties, whichever is the greater.
213. Any salary increases that fall due prior to or during a period of paid Other Parent Leave will be incorporated to the rate payable from the date of the increase.
214. Where an employee has not resumed duty following the conclusion of their Other Parent Leave and the employee is entitled to a subsequent period of paid Other Parent Leave, the employee's paid Other Parent Leave is to be paid according to the employee's status and classification at the time of commencing the original period of Other Parent Leave.

215. Special temporary or casual employment undertaken by the employee is has no effect on this, notwithstanding that the employee may have undertaken special temporary or casual work at a different classification or on a different basis to their substantive position.
216. Higher duties allowance is payable on the first four weeks of paid Other Parent Leave if the employee has been in receipt of a higher duties allowance for a period of 12 months continuous service immediately prior to commencing Other Parent Leave.

Commencement of Other Parent Leave

217. An employee can only commence Other Parent Leave from the day the employee assumes primary care of the child.
218. The period of paid Other Parent Leave must be concluded within 12 months after the birth of the child. An employer does have discretion, in exceptional circumstances, to allow an employee to take a period of paid Other Parent Leave that will result in the employee being on paid Other Parent Leave more than 12 months after the birth of the child. This may occur, for example, where a child requires a lengthy hospitalisation following its birth which makes it impossible to for an employee to take their period of paid Other Parent Leave within the required timeframe.
219. If an employer does allow an employee to take a period of paid Other Parent Leave more than 12 months after the birth of the child, the period of paid Other Parent Leave must not exceed the quantum prescribed at clause 25.3 (b). The employer may also require evidence that would satisfy a reasonable person that the circumstances warrant allowing the employee to take their period of paid Other Parent Leave more than 12 months after the birth of the child.

Other Provisions

220. The Other Parent Leave clause refers to Maternity Leave in relation to the following provisions:
- a) clause 23.9 – Interaction with Other Leave Entitlements;
 - b) clause 23.10 – Extended Unpaid Maternity Leave;
 - c) clause 23.11 – Communication During Maternity Leave;
 - d) clause 23.12 – Replacement Employee;
 - e) clause 23.13 – Employment During Unpaid Maternity Leave;
 - f) clause 23.14 – Return to Work on Conclusion of Maternity Leave; and
 - g) clause 23.15 – Effect of Maternity Leave on the Contract of Employment.
221. The Guidelines as provided for under Maternity leave have the same application as it applies to Other Parent Leave for the above clauses.

Clause 26 – Partner Leave

222. The 2008 General Agreements created a separate clause for partner leave, which incorporates the unpaid partner leave provisions contained in Circular to Departments and Authorities 3 of 2007 – Parental Leave.

223. This clause also introduced the right for an employee to access their personal leave accruals for paid partner leave purposes. That is, to take paid personal leave when their partner gives birth to their child.
224. This entitlement is subject to ensuring the employee retains sufficient personal leave credits (75 hours) to meet the requirements of the *Minimum Conditions of Employment Act 1993*.
225. The term “natural child” is now referred to as “child” in relation to adoption to reflect the provisions of the *Minimum Conditions of Employment Act 1993*.
226. In the absence of sufficient personal leave credits, an employee is able to take annual leave, long service leave, time off in lieu of overtime, flexi leave and/or banked hours as paid partner leave. The taking of such leave is, however, subject to the relevant provisions of the General Agreement or the applicable Award.
227. Part time employees are entitled to the provisions of this clause.

Clause 27 – Unpaid Grandparental Leave

228. The 2008 General Agreements introduced a new leave entitlement – 52 weeks unpaid grandparental leave. This leave is not a discretionary entitlement, akin in this regard to unpaid parental leave. This means, subject to the employee meeting the requirements of the clause, the employer cannot refuse to grant grandparental leave.
229. The sole requirement to be met in order to access this entitlement is that the employee be the primary care giver of their grandchild. As with unpaid Maternity, Adoption or Other Parent Leave, there is no requisite period of qualifying service.
230. Unlike Maternity, Adoption or Other Parent Leave, this clause provides:
- a) an employer with the discretion to allow an employee to access grandparental leave on a part time basis. For example, two day’s grandparental leave per week for 52 weeks; and
 - b) an employee with the right to commence the leave any time within 24 months following the birth or adoptive placement of their grandchild. For example, when the child is one year old.
231. The term “natural grandchild” is now referred to as “grandchild” to reflect the provisions of the *Minimum Conditions of Employment Act 1993*.
232. Whilst grandparental leave can be taken on a part time basis, an employee’s absence on grandparental leave must conclude no later than 52 weeks after the commencement of the leave. For example, an employee who takes 3 days a week grandparental leave commencing 1 January 2012 must conclude their leave by 1 January 2013. The employee in this situation will have taken 156 days leave (3 days x 52 weeks).
233. A small number of Maternity Leave provisions (specified in the clause) apply to employees on grandparental leave. These provisions apply with such amendment as is necessary to ensure the provision relates to grandparental rather than Maternity Leave.
234. A fixed term contract employee has the same entitlement to grandparental leave as a permanent employee. The period of leave shall not, however, extend beyond the term of their contract.

235. A part time employee has the same entitlement to grandparental leave as a full time employee, calculated on a pro rata basis. For example, an employee who works 3 days per week is entitled to 52 weeks leave at three days per week.

Clause 28 – Early Access to Pro Rata Long Service Leave

236. Early access to pro rata long service leave is an ageing workforce initiative. It is available at the rate of 9.28 days per completed 12 month period of continuous service, regardless of the length of prior service, for employees within seven years of preservation age under Western Australian Government superannuation arrangements.
237. Only leave accrued within seven years of the employee's preservation age or post the employee's preservation age can be accessed. This means that any pro rata long service leave accrued prior to this date cannot be accessed under the provisions of this clause once an employee is within the seven year timeframe [see the example in paragraph 238 (b) below].
238. Eligible employees can access 9.28 days from their anniversary date of commencing employment, adjusted for any long service leave excised. The following examples illustrate how pro rata long service may be accessed by an employee who meets the requirements of the General Agreement:
- a) If an employee is within seven years of their preservation age on 1 March 2012 and their first anniversary date is 14 October 2012 (i.e. they commenced employment on 14 October 2011), 9.28 days may be accessed from 14 October 2012.
 - b) If an employee is within seven years of their preservation age on 1 March 2012 and their tenth anniversary date is 14 October 2012 (i.e. they commenced employment on 14 October 2002), only 9.28 days may be accessed from 14 October 2012 under the provisions of this clause.
 - c) If this employee does not take any of the 9.28 days available from 14 October 2012, then on 14 October 2013 the employee can access 18.56 days (9.28 days x two years), assuming the anniversary date has not changed.
 - d) If this employee takes two days long service leave during the period 14 October 2012 to 13 October 2013, then from 16 October 2013 the employee can access 16.56 days (7.28 + 9.28 days). The anniversary date has moved out by the two days long service leave taken.
239. Employees who take pro rata long service leave and resign prior to age 55 are not required to pay back the monetary equivalent of the leave taken.
240. Pro rata long service leave:
- a) Pro rata long service leave taken by public service officers under this clause of the General Agreement is deducted from any pro rata long service leave taken as per PSA clause 25 (9) and from any pro rata long service leave that is paid as a lump sum as per *Regulation 5 - Lump Sum Payments of the Public Service Regulations 1988*.
 - b) Pro rata long service leave taken by government officers under this clause of the General Agreement is deducted from any pro rata long service leave taken as per GOSAC Award clause 25 (12) and from any pro rata long service leave that is paid as a lump sum as per Award clause 25 (8).

241. Information required concerning preservation age under Western Australian Government superannuation arrangements can be obtained from GESB.
242. This entitlement extends to part time employees on a pro rata basis, and to fixed term contract employees.

Excising Service

243. Any long service leave accessed is excised for the purpose of continuous service in accordance with the applicable Award. Any period of leave cashed out is excised. For example, if 2 weeks leave is cashed out then 2 weeks service is excised. If 4 weeks leave is cashed out and 4 weeks taken, then 8 weeks is excised.
244. Long service leave on half pay is an existing Award entitlement. The period of leave taken while on half pay is excised. For example, if 13 weeks leave is taken at half pay over 26 weeks, then 26 weeks is excised.

Long Service Leave for Employees on 9 Day Fortnights

245. For the purpose of pay, long service leave for employees on 9 day fortnights will apply as follows:
- a) A full long service leave entitlement of 13 weeks equates to the payment of 487.5 hours when the full entitlement is taken.
 - b) For periods of less than four weeks long service leave is debited at 8.33 hours for each day that the employee would normally have worked including public holidays. Zero hours are debited for what would ordinarily be a rostered day off.
 - c) For periods of four weeks or more there is no accrual towards rostered days off and pay is at the ordinary rate.
246. Where there are systems in place which record long service leave debits for the purpose of pay differently to the above arrangement, agencies must ensure that:
- a) a full long service leave entitlement of 13 weeks equates to the payment of 487.5 hours when the full entitlement is taken;
 - b) payment for long service leave is at the ordinary rate; and
 - c) when a public holiday falls on a day long service leave is taken a day in lieu is not granted.

Clause 29 – Pro Rata Additional Annual Leave for Shift Workers

247. Custom and practice has deemed 'regularly rostered' on Sundays and/or public holidays to mean a shift work employee was rostered to work at least 11 Sundays and public holidays in a period of 12 months continuous service. The General Agreement includes a definition of "regularly rostered" based on this interpretation.
248. Prior to the introduction of this clause, employees could only access the additional leave once they had been rostered to work at least 11 Sundays and public holidays in a period of 12 months continuous service. The General Agreement allows for pro rata access to the additional five day's annual leave. An eligible employee may therefore access the additional leave where they have been rostered on and worked less than 11 Sundays and/or public holidays in a period of 12 months. For example,

an eligible employee who has been rostered on and worked three Sundays is entitled to one additional day of leave.

249. Part time employees are entitled to pro rata leave on a pro rata basis according to the hours worked on the Sundays and/or public holidays for that accrual portion of leave. The calculation is not based on the part time employee's total weekly hours. For example, an employee who worked four hours on three Sundays is entitled to four hour's additional leave.
250. If the hours worked on each Sunday varied, the employee is entitled to an average of the hours worked for that accrual portion. For example, an employee who worked four hours on one Sunday and five hours on another two Sundays is entitled to 4.67 hour's additional leave.
251. The maximum leave accrual remains unchanged at five days (37.5 hours).

Clause 30 – Pro Rata Additional Annual Leave for North West Employees

252. Prior to the introduction of this clause, an eligible employee could only access additional leave on the completion of each year of continuous service. The General Agreement allows for pro rata access to the additional leave – that is, where the employee has worked in the North West for less than 12 months.
253. As with ordinary annual leave, the additional leave now accrues on a daily basis.
254. The maximum leave accrual remains unchanged at five days (37.5 hours).
255. There may be situations where an employee is on relief duty or travelling on official business in the North West and is entitled to the additional leave provided by the Weekend Absence from Residence provisions of the applicable Award. Where an employee receives such additional leave, they are not also entitled to the pro rata annual leave provided to North West employees in this clause.

Clause 31 – Annual Leave Loading

256. The General Agreement provides for annual leave loading to be paid on the first pay date in December in the calendar year in which the leave accrues.
257. The clause does not apply to shift work employees, nor to employees on commuted arrangements that incorporate leave loading.
258. Employees who have accrued annual leave prior to 1 January 2011 will have the leave loading paid on that leave as the leave is taken.
259. Employees who are in the service of the employer prior to or engaged after 1 January in each year shall be paid the leave loading anticipated to be due on 31 December of that year, based on the annual leave accrued in that calendar year.
260. Adjustments may be required following the payment of annual leave loading in December to account for any changes in an employee's employment prior to 31 December such as increment, level, higher duties allowance (HDA) or hours.
261. Annual leave loading paid on leave accrued after 1 January 2011 is to be paid based on an employee's substantive rate, with a possible exception relating to Higher Duties Allowance (HDA).

Higher Duties Allowance

262. Where an employee proceeds on annual leave during the calendar year in which that leave accrues, and:
- a) the leave taken was accrued after 1 January 2011; and
 - b) the employee is in receipt of HDA during the period of leave;
- annual leave loading relating to this period of leave will be paid in December based on:
- a) the HDA rate applicable at the time the leave was taken, or
 - b) the employee's anticipated substantive rate as at 31 December of that year;
- whichever is higher.

Example 1 – Annual leave loading and HDA:

An employee in receipt of HDA proceeds on three weeks of annual leave in 2011. Two of these weeks were accrued prior to 1 January 2011, and one week was accrued after 1 January 2011. The employee meets the requirements of clause 36.2 of the General Agreement, and is therefore entitled to receive HDA whilst on annual leave.

Annual leave loading on the two weeks of leave accrued prior to 1 January 2011 is paid at the time the leave is taken. It is paid at the HDA rate applicable at the time the leave is taken.

Annual leave loading on the one week of leave accrued after 1 January 2011 is paid in December. It is paid at the HDA rate applicable at the time the leave was taken.

Annual leave loading on the remaining weeks of annual leave accrued but not taken during 2011 is paid in December at the employee's substantive rate of pay.

Example 2 – Annual leave loading and HDA where an employee's substantive rate changes during the calendar year:

A substantive Level 4 employee covered by the PSGOGA is in receipt of a HDA at Level 5. In June 2012, the employee proceeds on a week long period of annual leave using leave accrued during 2012. The employee meets the requirements of clause 36.2 of the General Agreement, and is therefore entitled to receive HDA whilst on annual leave.

In September the employee is successful in securing a PSGOGA Level 6 position with the same employer. In December, annual leave loading relating to the period of leave taken in June 2012 is paid at the Level 6 rate, and not the Level 5 HDA rate.

Had the employee not been successful in securing the Level 6 position and their substantive position remained at Level 4, annual leave loading relating to the period of leave taken in June 2012 would be paid in December at the Level 5 HDA rate.

263. Annual leave loading paid on leave accrued prior to 1 January 2011 is to be paid based on the HDA rate at the time the leave is taken.

Movement between shift and non-shift status

264. Where employees have been employed both as shift and non-shift workers during the course of the calendar year:
- a) any annual leave loading based on annual leave accrued after 1 January 2011 as a non-shift worker is paid out in December;
 - b) any annual leave loading based on annual leave accrued prior to 1 January 2011 as a non-shift worker is paid out when the leave is taken; and
 - c) any annual leave loading based on annual leave accrued prior to or after 1 January 2011 as a shift worker is paid out when the leave is taken.

Part time employment

265. The maximum leave loading payable to part timers is based on the average hours of work per fortnight, as per clause 31.5. The average hours worked per fortnight is inclusive of all hours worked, and expected to have been worked, during the calendar year, up to and including 31 December. This is inclusive of time spent on paid leave.
266. The formula contained in clause 31.5 is to be applied to employees who have worked in a part time capacity at any point during that calendar year.

Termination of employment

267. Where an employee's employment terminates prior to the first pay date in December, any outstanding leave loading to which they are entitled is to be paid on termination.
268. Where an employee's employment terminates after the first pay date in December, the employee will be required to refund any leave loading paid based on leave expected to be accrued between the date of their termination and 31 December.

Movement of employees between WA Public Sector employers

269. Where an employee moves permanently between WA Public Sector employers maintaining continuity of service and CSA coverage within the GA5 agreements, the employing authority as at the first pay period in December pays annual leave loading based on the full calendar year's accrual.
270. Where an employee has been, or is on secondment, the payment arrangements will need to be addressed as part of the secondment agreement between the host and home employers. However, the employee must receive the annual leave loading payment in December.

Transitional Arrangements

271. Any annual leave loading paid on annual leave accrued and taken in 2011 prior to the registration of the General Agreement is to be offset against the annual leave loading paid on the first pay date in December 2011.
272. Employees will clear annual leave starting with the oldest accrued annual leave. Annual leave which was accrued prior to 1 January 2011 will continue to attract the 17.5% leave loading paid at the time of taking the leave.
273. The maximum payment of annual leave loading paid on leave accrued prior to 1 January 2011 is to be calculated separately to the annual leave loading paid on the first pay date in December 2011.

Clause 32 – Employee Initiated Cash Out of Accrued Annual Leave

274. Under the 2011 General Agreement, employees are now able to cash out accrued annual leave where certain conditions have been met. The General Agreement recognises the importance of employees taking annual leave for the purposes of rest and recreation. However, this clause takes into account the situation where employees may have excess and overdue annual leave, and provides for employees to receive payment in lieu of some of their unutilised accrued annual leave.
275. A request to cash out annual leave must be initiated by the employee and made in writing. An employer may exercise discretion when considering an application to access this provision.
276. Where an employee initiates a written request to cash out annual leave, any agreement by the employer, approving the cashing out of annual leave, must also be in writing.
277. The clause contains further safeguards which ensure employees will utilise at least part of their accrued annual leave for the purposes of rest or recreation. As such, the following criteria must also be met:
- a) the employee has an entitlement to annual leave that has accrued in a previous year or years;
 - b) no more than 50% of the employee's total accrued annual leave entitlement can be cashed out;
 - c) the employee must be left with not less than two weeks accrued annual leave in their bank;
 - d) each instance of cashing out must be by separate agreement; and
 - e) annual leave accruing in the year the request for cashing out is made cannot be cashed out in that year.

Application of criteria

278. One of the criteria is that an employee may only cash out up to 50% of their **total** accrued annual leave. The PSA defines accrued leave as the leave an employee is entitled to from a previous calendar year (clause 23 (1) (a)).

Example

An employee commenced full time employment with the Department of Premier and Cabinet on 1 January 2008. In September 2011, the employee initiates a written request to cash out some of their annual leave. As the employee has completed three years of service (2008, 2009 and 2010), their **total** accrued leave would be 12 weeks of annual leave. Therefore, the employee would be eligible to cash out up to a maximum of six weeks of their unutilised annual leave (i.e. total accrued leave minus accrued leave already taken), provided that they are left with not less than two weeks accrued annual leave in their bank.

Applications to Cash Out Accrued Annual Leave

279. The clause does not specify the number of occasions in each calendar year an employee may apply to cash out their accrued annual leave. The clause does, however, require that agreement between the employee and employer is reached.

Payment

280. The rate of pay at which an accrued leave entitlement is paid out will be the rate which would have applied had the leave been taken at the time the agreement to cash out the leave is made.

Leave loading - Relationship to Annual Leave Accrued Prior to 1 January 2011

281. The cash out of annual leave which was accrued prior to 1 January 2011 will include a loading of 17.5%, subject to the maximum payment provided for in clause 31.12(d) of the General Agreement.
282. The loading paid out when an employee cashes out their annual leave does not count towards the maximum loading payable when an employee's leave loading is paid out in December of the current year.

Leave loading - Relationship to Annual Leave Accrued After 1 January 2011

283. The cash out of annual leave which was accrued after 1 January 2011 will not attract an annual leave loading. Such loading shall be paid to employees on the first pay period in December in the calendar year in which the leave accrues.

Clause 33 – Days in Lieu of Repealed Public Service Holidays

284. This clause provides for the two days in lieu of the repealed public service holidays as provided for in the Premier's Circular 2003/01 - *Days in Lieu - Public Service Holidays*.

Clause 34 – Christmas/New Year Closedown

285. This new clause provides employers with the capacity to initiate a closedown during the Christmas to New Year period, for the whole or part of the employer's agency, provided that the following criteria are met:
- a) the duration of the closedown must not exceed five working days; and
 - b) the employer notifies employees of the closedown as soon as possible, but no later than 30 June.

Leave arrangements during the closedown

286. The following forms of leave can be accessed provided the eligibility criteria are met as per the table below:

Leave Type	Criteria for accessing leave for the purpose of a Christmas closedown as per clause 34 – Christmas/New Year Closedown of the General Agreement
Flexitime credit and banked hours	Can be accessed in accordance with clause 17 – Hours of the General Agreement.
Rostered days/hours off	Can be accessed in accordance with clause 17 – Hours of the General Agreement.
Time in lieu of overtime	Can be accessed in accordance with clause 20 – Overtime of the General Agreement.
Annual leave	Can be accessed in the absence of sufficient banked hours or flexitime credit hours to cover the closedown period.
Accrued long service leave	Can be accessed in the absence of sufficient banked hours or flexitime credit hours to cover the closedown period.
Banked hours accrued during the calendar year specifically for the purpose of covering the closedown period	<ul style="list-style-type: none"> • Can be accessed by employees who do not currently participate in existing flexi-leave arrangements. • The hours must be accrued pursuant to clause 17 – Hours of the General Agreement. • The hours are accrued to a maximum of those necessary to cover the closedown period.
Leave without pay	<p>At the discretion of the employer, leave without pay is available to employees:</p> <ul style="list-style-type: none"> • engaged during the calendar year immediately preceding the closedown who have not accrued sufficient banked hours to cover the period of the closedown; or • who have not accrued sufficient banked hours to cover the period of the closedown and have exhausted their paid leave credits.
Annual leave in advance	<p>At the discretion of the employer, annual leave in advance is available to employees:</p> <ul style="list-style-type: none"> • engaged during the calendar year immediately preceding the closedown who have not accrued sufficient banked hours to cover the period of the closedown; or • who have not accrued sufficient banked hours to cover the period of the closedown and have exhausted their paid leave credits.

287. Provided all applicable eligibility criteria are met, a combination of leave types can be utilised for the purpose of covering the closedown.

288. Once the employer notifies the employees of the closedown, employees may commence the accrual of hours specifically for the purpose of covering the closedown.

289. Employees accessing flexi leave may go into debit to cover the period of the closedown. Where the employment of such an employee is terminated prior to accrual of sufficient hours to cover the cover the debit, the employee will be required to refund the balance of hours outstanding on termination.
290. Notwithstanding the provisions of clause 17.11 of the General Agreement, an employee who has accrued hours for the purposes of the closedown and subsequently:
- a) resigns;
 - b) transfers to another agency; or
 - c) otherwise has their employment terminated;
- without being afforded the opportunity to clear their credit and banked hours, the employee will be paid for those unused hours that relate only to the closedown.

Clause 35 – Public Sector First Aid Allowance

291. This allowance is calculated on the salary of a Level 1.8 general division employee. The quantum of the allowance will therefore increase with each wage increase.
292. An employee is only entitled to receive the first aid allowance if the employer has formally appointed the employee to be the first aid officer for a workplace and the employee has the appropriate first aid qualification. The allowance is not simply paid to any employee who has the appropriate qualification. The allowance should not be paid simultaneously to the first aid officer and any deputy first aid officer/s in a workplace.
293. The first aid allowance is to be paid fortnightly.
294. It is the intention that this allowance be extended to all eligible WA Public Sector employees.
295. The number of and method of appointment of first aid officers is to be determined by the agency.

Clause 36 - Higher Duties Allowance

Higher Duties Allowance and Leave

296. Clause 36 provides for the payment of higher duties allowance (HDA) on any period of paid leave, subject to meeting the specified requirements. This includes annual leave, long service leave and paid personal leave. The employee must actually proceed (for example be absent) on annual, personal or long service leave to receive this entitlement.
297. The payment of HDA whilst on Maternity Leave, Adoption Leave and Other Parent Leave is dealt with in clauses 23.6, 24.4, and 25.4 of the General Agreement.
298. Where an employee who has been in receipt of HDA for a continuous period of twelve months or more proceeds on any period of paid leave and resumes in the office immediately on return from leave, the employee shall continue to receive the allowance for the period of paid leave, no matter how long.
299. Where an employee who has been in receipt of HDA for a continuous period of twelve months or more proceeds on any period of paid leave and does not resume in

the office immediately on return from leave, the employee shall continue to receive the allowance for the period of the leave accrued during the period of HDA.

300. This entitlement is clarified by means of the following examples:

Example 1

If an employee who had no leave accrued prior to commencing on HDA proceeds on six week's leave after 18 months on HDA and is not returning to the office, then HDA is paid for those 6 weeks of leave. (The 6 weeks leave being accrued while on 18 months HDA).

Example 2

If an employee who had accrued four weeks' leave before commencing HDA proceeds on eight weeks' leave after 12 months on HDA and the employee is returning to the office, then HDA is paid for eight weeks' of leave. (That is, all of the four weeks' pre-HDA accrued leave plus the further four week's leave accrued while on 12 months HDA).

Example 3

If an employee who had accrued eight weeks' leave before commencing HDA, proceeds on six week's leave after 12 months on HDA and the employee is returning to the office, then HDA is paid for all six weeks' of leave. If, however, the employee immediately continues on HDA for a further six months and proceeds on a further eight weeks' leave but is not returning to the office, then HDA is paid for a further six weeks' only (being the six week's leave accrued while on 18 months HDA).

Example 4

If an employee who had accrued eight week's leave prior to commencing on HDA, proceeds on eight weeks' leave after 18 months on HDA and is not returning to the office, then HDA is only paid for six weeks' of the leave (being the six weeks' leave accrued while on 18 months HDA).

301. Under the applicable Award the HDA is equal to the difference between the employee's own salary and the salary the employee would receive if the employee was permanently appointed to the office in which he/she is acting. This refers to normal HDA. HDA is paid at normal rates and not at double pay or half pay.

Double Pay Long Service Leave

302. An employee proceeding on long service leave on double pay for half the period accrued is entitled to HDA according to the length of absence from the workplace and not the actual leave entitlement extinguished. For example, an employee who takes six weeks' long service leave on double pay is absent from the workplace for three weeks. Where the necessary requirements are met, HDA is to be paid for three week's leave. This reflects the principle that HDA should not be paid for any longer than 52 weeks in a 12 month continuous period.

Half Pay

303. An employee proceeding on long service leave on half pay for double the period accrued is entitled to HDA according to the actual leave entitlement extinguished not

the length of absence from the workplace. For example, an employee who takes four week's long service leave on half pay is absent from the workplace for eight weeks. Where the necessary requirements are met, HDA is to be paid for four week's leave.

Cashing Out of Annual Leave and Long Service Leave

304. Employees who cash out any annual leave or long service leave entitlement do not receive HDA on the cashed out entitlement as they do not "proceed" on this leave.

Part Time Higher Duties Allowance Arrangements

305. The General Agreement allows part time employees to access HDA where they work 37.5 consecutive hours according to their part time work pattern. For example, an eligible employee who works 7.5 hours on Mondays, Wednesdays and Fridays will be entitled to a HDA once they have completed 37.5 consecutive hours according to this work pattern – that is, Monday, Wednesday, Friday, Monday, Wednesday.
306. This clause also makes provision for employees to access part time higher offices and receive HDA. For example, an employee acting in a higher office where the normal working hours of that position are 7.5 hours on Mondays, Tuesdays, and Wednesdays will be entitled to HDA once they have completed 37.5 consecutive hours according to this work pattern – that is Monday, Tuesday, Wednesday, Monday, Tuesday.
307. The reference is to 37.5 consecutive hours rather than 5 consecutive days in recognition that part time employees may work less than 7.5 hours per day, not just less than 5 days per week.

Clause 37 – Commuted Allowance

308. The introduction of any commuted allowance in lieu of overtime, on call or shift allowances is to be negotiated between the union and the employer. On the request of either party the other party is obliged to enter into negotiations for such arrangements.

Clause 38 – District Allowance

309. Clauses 38.3 to 38.6 of the General Agreement replace clauses 9.1.4 and 9.1.5 of the District Allowance (Government Officers) General Agreement 2010 (DAGOGA) respectively. This clause only applies to employees who are also covered by the DAGOGA.
310. The PSGOGA clause adds to the DAGOGA entitlement by providing for the continuation of District Allowance payments whilst on personal leave or bereavement leave for up to a maximum of two weeks. If an employee or their dependant/s remain in the District, the allowance will continue to be paid beyond the two week leave period. The employer has the discretion, as per clause 38.5, to extend the payment of District Allowance beyond two weeks when an employee is on approved personal leave.

Clause 39 – Remote and Isolated Locations

311. This clause contains remote and isolated (R&I) leave and other financial benefits for those employees "posted" i.e. required to work in designated "multi-function" locations as defined in the General Agreement.

312. The following four remote locations have been added in 2011 to enable access to the remote and isolated location allowance provisions: Blackstone, Burringurrah, Oombulgurri and Looma.
313. Under normal circumstances a full twelve months must be worked before any R&I leave entitlement applies, and the leave would normally be taken at the end of the posting. However, an employee required to move from an R&I location at the request of the employer for operational reasons has a pro rata R&I leave entitlement.
314. An employee who leaves a designated remote location at the direction of the employer and subsequently returns to that or another designated location will either receive a pro rata R&I leave entitlement for the first location, or have the two components joined for the purposes of calculating the total R&I leave entitlements.
315. R&I leave can only be taken during the term, i.e. before the completion date of the contract by mutual agreement. Similarly, any application to defer the R&I leave due at the completion of the posting can only apply by mutual agreement.
316. The additional leave is a separate entitlement, stands alone and does not attract leave loading. As paid leave it counts towards qualifying service.
317. Agencies should separately identify this leave and create a separate pay code for this entitlement.
318. There is no capacity to cash out this type of leave.
319. Any reference to an attraction and retention incentive in this clause is also to be read as a reference to an attraction and retention benefit.

Clause 40 - Regional Training and Development

320. This clause contains an undertaking for agencies to review the accessibility of personal development opportunities (including training and acting opportunities) for their regional employees. The review is to have regard for agency operational requirements and comparative opportunities provided to metropolitan employees. The outcomes are to be presented to agency Joint Consultative Committees.

Clause 41 - Working From Home

321. This is a facilitative clause for working from home, which is subject to employer discretion.
322. The home is not to be designated as the employee's headquarters. Duties undertaken are those that would normally be performed at the employee's headquarters.
323. Agencies need to develop their own policy and procedures consistent with the requirements of this clause to safeguard the interests of both employers and employees.

Clause 42 - Workload Management

324. This clause provides an approach for dealing with workload issues should they arise. In addition it outlines obligations of employers, and performance requirements of employees.

Clause 43 - Procedure for Classifying an Office

325. This clause contains a carried over undertaking by PSC to review the procedure for classifying an office, as provided for in Approved Procedure 1 - *Approved Classification System and Procedures*.

Clause 44 – Union Facilities

326. This clause requires an employer to provide the union with the time to discuss union benefits with new employees as part of the employee's formal induction program. This is in addition to the existing Award requirement to provide union representatives with time to discuss union benefits with new employees.

Clause 45 - Joint Consultative Committee

327. This clause provides for notification of employees and the union where change affecting employees is proposed, and for the establishment of a JCC.
328. JCCs are forums for consultation. They are not decision-making bodies. Decisions will continue to be made by the employer who is responsible and accountable to Government for the effective and efficient operation of the agency.
329. Matters not resolved through the JCC can be dealt with as provided for in the General Agreement Dispute Settlement Procedure.

Clause 46 - Peak Consultative Forum

330. This clause maintains the Peak Consultative Forum consisting of senior representatives from the union and Directors General or their nominated representatives from Commerce and PSC and, as required, other agencies.

Clause 47 - Contract for Service - Labour Hire

331. This clause has been retained as the Peak Consultative Forum continues to discuss ways to expedite and streamline access to information on fixed term contracts and labour hire arrangements within Government. Agencies wishing to utilise either fixed term contracts or labour hire are still required to follow *Approved Procedure 5 - Approved Contracts for Services Procedure*.

Clause 48 - Dispute Settlement Procedure

332. This clause provides for a dispute settlement procedure (DSP) for the parties to the General Agreement, JCC disputes and employee/employer disputes.
333. The DSP has been amended in the General Agreement to allow for the resolution of any questions, difficulties or disputes arising from the provisions of the General Agreement only.

Schedule 1 - Signatures of Parties

334. This schedule contains the signatures of the parties to the General Agreement, with Commerce acting as agent for employers.

Schedule 2 – General Division Salaries & Schedule 3 - Specified Calling Salaries

335. These schedules list salary rates applicable under the General Agreement.

Schedule 4 - Agency Specific Agreements

336. This schedule lists the ASAs which continued in force when the General Agreement was registered unless replaced by a subsequent agreement or a party withdraws from the agreement.

Schedule 5 - Parties to this General Agreement

337. This schedule now has three items:

- a) Union Party;
- b) Employer Parties Respondent to the PSA; and
- c) Employer Parties Respondent to the GOSAC Award.

338. Items 2 and 3 have been updated to incorporate :

- a) agency name changes and machinery of Government changes; and
- b) the insertion of the Chemistry Centre of WA, Commissioner for Children and Young People, Heritage Council of Western Australia, Mental Health Commission and Office of the Environmental Protection Authority under Item 2, and the insertion of the Office of the Information Commissioner and the Western Australian College of Teaching under Item 3; and
- c) the removal of Perth Zoo from Item 3, as the Zoological Parks Authority is the employing authority and was already a respondent to the GOSAC GA and Award.

PART B

PUBLIC SERVICE AWARD 1992

AND

GOVERNMENT OFFICERS SALARIES, ALLOWANCES AND CONDITIONS AWARD 1989 VARIATIONS

Introduction

1. On 28 June 2011 the WAIRC issued two orders varying the Public Service Award 1992 (PSA) and the Government Officers Salaries, Allowances and Conditions Award 1989 (GOSAC) for a number of amendments arising from the General Agreement 2011 negotiations (see Award Circular – Public Service Award 1992 – Circular No. 3 of 2011 and Award Circular – Government Officers Salaries, Allowances and Conditions Award 1989 - Circular No. 3 of 2011).
2. The Award amendments came into effect from 27 June 2011.
3. Part B of these explanatory notes are to be read in conjunction with the General Agreement and the applicable Award.

PSA and GOSAC Clause 18 – Annual Increments

4. Changes to these clauses now allow an employee to progress to the next salary increment after 12 months continuous service, to the maximum of their salary range by annual increments, unless there is an adverse report on the employee's performance or conduct that recommends the increment be withheld.
5. This Award variation effectively reverses the previous onus on increment progression; employees will now automatically progress unless there is a performance or conduct report that recommends the increment not be paid.
6. Where a report on an employee's performance or conduct recommends the non-payment of an annual increment:
 - a) employees must be shown any adverse report prior to completing 12 months service since their last incremental advance and given an opportunity to provide comment in writing. Those comments will be considered by the employer prior to approving or not approving the increment; and
 - b) the anniversary dates of future increments will not be affected by the decision to withhold an increment.

PSA and GOSAC Clause 23 – Annual Leave

7. The annual leave travel concession provisions within the Annual Leave clause have been updated to:
 - a) clarify that the District Allowance boundaries are provided for within clause 43 (2) of the PSA and clause 42 (2) of the GOSAC Award;
 - b) state the parties' intention that only one annual leave travel concession is payable to employees per calendar year;
 - c) insert a definition of "dependant", which was previously undefined in the applicable Awards; and
 - d) clarify under which circumstances a child will be considered to rely on the employee for their main financial support, which is an aspect of the new definition of "dependant".

PSA and GOSAC Clause 32 – Bereavement Leave

8. The Awards have been updated to better reflect the definition of a "member of an employee's family or household" as provided for in clause 3(1) of the *Minimum Conditions of Employment Act 1993*, as follows:
 - a) employees are now eligible for bereavement leave on the death of the grandchild or grandparent of the employee;
 - b) the clause clarifies that employees are also eligible for the entitlement on the death of an *adult* child, step-child or grandchild; and
 - c) the entitlement extends to the death of a member of the employee's household, rather than family.

PSA Clause 42 – Camping Allowance and GOSAC Clause 41 – Camping Allowance

9. The clause now clarifies that where an employer uses their discretion under PSA clause 42 (7) (a) or GOSAC clause 41 (7) (a) to extend an entitlement to the camping allowance beyond 91 days, any determination must be made in accordance with the Camping Allowance schedule of the applicable Award.

PSA Clause 48 – Property Allowance and GOSAC Clause 47 – Property Allowance

10. The Awards have been updated to clarify the expenses that can be claimed under the Property Allowance provision. The previous provision referred to a 1976 Solicitors Order which has now been superseded.
11. The Awards have been updated to provide a definition of "Transfer" or "Transferred" as meaning a permanent transfer or permanently transferred.

PSA Schedule L – Named Parties

12. The residency list has been updated to:
 - a) incorporate agency name/Machinery of Government changes; and
 - b) insert the Chemistry Centre of WA, Commissioner for Children and Young People, Heritage Council of Western Australia, Mental Health Commission and Office of the Environmental Protection Authority.

GOSAC Schedule A – List of Respondents

13. The respondency list has been updated to:
 - a) incorporate agency name/Machinery of Government changes; and
 - b) insert the Office of the Information Commissioner and the Western Australian College of Teaching; and
 - c) remove the Perth Zoo, as the Zoological Parks Authority is the employing authority and was already a respondent to this Award.

SUMMARY OF KEY CHANGES IN THE PUBLIC SERVICE AND GOVERNMENT OFFICERS GENERAL AGREEMENT 2011

The following table identifies the key changes to conditions contained in PSGOGA 2011. It does not include every change so reference should also be made to the Agreement itself.

Clause	Description
Clause 1 - TITLE	The General Agreement combines, cancels and replaces the PSGA 2008 and the GOSAC GA 2008. The new title: Public Service and Government Officers General Agreement 2011, reflects the combined agreements.
Clause 2 - ARRANGEMENT	<p>The arrangement has been adjusted to reflect the combined provisions of the replaced General Agreements.</p> <p>New provisions introduced under the 2011 General Agreement:</p> <ul style="list-style-type: none"> • cl. 23 - Maternity Leave; • cl. 24 - Adoption Leave; • cl. 25 - Other Parent Leave; • cl. 31 - Annual Leave Loading; • cl. 32 - Employee Initiated Cash Out of Accrued Annual Leave; and • cl. 34 - Christmas/New Year Closedown
Clause 3 - DEFINITIONS	<p>A number of changes have been made to accommodate differences between the replaced General Agreements. In most instances the definitions seek to reflect the provisions from the previous PSGA 2008 or GOSAC GA 2008.</p> <p>In some instances it has been necessary to provide differing definitions depending on the applicable Award. Examples include "Agency" and "Employer".</p> <p>New definitions include:</p> <ul style="list-style-type: none"> • "Applicable Award": Which depending on scope and respondency is either the PSA or GOSAC Award; • "Ordinary rate of salary"; and • "PSC".
Clause 5 - APPLICATION AND PARTIES BOUND	<p>This clause defines the two separate categories of employees covered by the General Agreement:</p> <ol style="list-style-type: none"> 1) Public Service Officers and Executive Employees; and 2) Government Officers. <p>Subject to any variations issued by orders of the Western Australian Industrial Relation Commission, for the life of the General Agreement the provisions of the applicable Awards will be preserved as they apply at the time of registration.</p>
Clause 10 - SALARIES	The General Agreement provides for annual salaries as set out in Schedule 2 of the General Agreement to apply from

	<p>15 April 2011.</p> <p>The General Agreement acknowledges that the salary increases are in full and final settlement of productivity improvements up to the date of commencement of the Agreement.</p>
Clause 15 – FIXED TERM CONTRACT EMPLOYMENT	The General Agreement provides for the employment of employees on fixed term contracts.
Clause 19 – SHIFT WORK	A definition of “Afternoon shift” has been added to provide clarification.
Clause 21 – PERSONAL LEAVE	The provisions relating to war caused illnesses from the applicable Awards have been added to the General Agreement at clause 21.14. This avoids the need to refer back to the applicable Award in relation to Personal Leave provisions.
Clause 22 – PURCHASED LEAVE – 42/52 ARRANGEMENT	Reimbursement of untaken purchased leave will occur on the last pay period in February, instead of January. This clause also clarifies that untaken purchased leave will be paid out at the rate it was purchased, not the rate at the time of reimbursement.
<p>PARENTAL LEAVE</p> <p>Clause 23 – MATERNITY LEAVE</p> <p>Clause 24 – ADOPTION LEAVE</p> <p>Clause 25 – OTHER PARENT LEAVE</p>	<p>The Parental Leave clause in the replaced General Agreements have been replaced with three separate clauses that cover the three instances of parental leave:</p> <p>Clause 23 – Maternity Leave Clause 24 – Adoption Leave Clause 25 – Other Parent Leave</p> <p>The clauses serve to provide clarification of the entitlement and allows for a more simplified reading. These clauses replace clause 28 of the applicable Awards.</p> <p>Entitlements have been enhanced with respect to the following provisions:</p> <ul style="list-style-type: none"> • higher duties allowance paid on four weeks of paid leave if eligible; • age of adopted child increased to 16 years; and • travel time to gain custody of adopted child can now be included in Adoption Leave.
Clause 31 – ANNUAL LEAVE LOADING	Payment of annual leave loading will now occur on a fixed date in December of each year. Shift employees and employees with commuted salary arrangements which incorporate annual leave loading will continue to have their existing annual leave loading arrangements applied.
Clause 32 – EMPLOYEE INITIATED CASH OUT OF ACCRUED ANNUAL LEAVE	Provides employees the option to request cashing out of up to 50% of total accrued (previous years’) annual leave entitlement.
Clause 34 – CHRISTMAS / NEW YEAR CLOSEDOWN	<p>This clause provides employers with the capacity to initiate a closedown during the Christmas to New Year period for a maximum of five days.</p> <p>Employees will be provided at least six months notice and options for the use of leave or the accrual of hours for use</p>

	over any closedown period.
Clause 38 – DISTRICT ALLOWANCE	Provides for the continuation of District Allowance payments for a maximum of two weeks when out of the area for personal leave or funerals.
Clause 39 – REMOTE AND ISOLATED LOCATIONS	The following four remote locations have been added to enable access to the remote and isolated location allowance provisions: Blackstone, Burringurrah, Oombulgurri and Looma.
Clause 48 – DISPUTE SETTLEMENT PROCEDURES	The clause has been updated to assist with the resolution of any questions, difficulties or disputes arising from the provisions of the General Agreement.
Schedule 5 – PARTIES TO THIS GENERAL AGREEMENT	<p>This schedule now has three items:</p> <ol style="list-style-type: none"> 1) Union Party; 2) Employer parties respondent to the PSA; and 3) Employer parties respondent to the GOSAC Award. <p>Items 2 and 3 have been updated to incorporate new entities and reflect name changes.</p>

SUMMARY OF KEY CHANGES TO THE PUBLIC SERVICE AWARD 1992 AND THE GOVERNMENT OFFICERS SALARIES, ALLOWANCES AND CONDITIONS AWARD 1989

The following table identifies the key changes to the Public Service Award 1992 and the Government Officers Salaries, Allowances and Conditions Award 1989. Reference should be made to the applicable Award itself.

Public Service Award Clause	GOSAC Award Clause	Amendments
18 – Annual Increments	18 – Annual Increments	<ul style="list-style-type: none"> ▪ Employees shall now advance to the next increment unless there is an adverse report on the employee’s performance. ▪ Employees will be shown any adverse report prior to completing 12 months continuous service since their last incremental advancement.
23 – Annual Leave	23 – Annual Leave & Schedule M – Travel Concessions for Annual Leave	<p>Changes to Annual Leave Travel Concessions:</p> <ul style="list-style-type: none"> ▪ Clarification that District Allowance Areas are provided for within: <ul style="list-style-type: none"> ○ PSA clause 43(2); and ○ GOSAC Award clause 42(2). ▪ Only one annual leave travel concession per employee or dependant per annum is available. ▪ Insertion of the definition of “dependant”. ▪ Clarifies the meaning of “reliance on an employee for their main financial support.”
32 – Bereavement Leave	32 – Bereavement Leave	<ul style="list-style-type: none"> ▪ Provision has been amended to better reflect the <i>Minimum Conditions of Employment Act 1993</i>. ▪ Extends the entitlement to the death of grandchildren and grandparents. ▪ Clarifies that the entitlements applies on the death of <i>adult</i> children, step-children and grandchildren. ▪ Updates the entitlement to apply on the death of a member of the employee’s household, rather than family.
42 – Camping Allowance	41 – Camping Allowance	<ul style="list-style-type: none"> ▪ Clarifies that any determination made by the employer under clause (7) (a) of the applicable Award must be made in accordance with the Camping Allowance schedule.
48 – Property Allowance	47 – Property Allowance	<ul style="list-style-type: none"> ▪ Definition of “Expenses” has been updated to refer to cost determination for non-contentious business matters made under section 275 of the Legal

Public Service Award Clause	GOSAC Award Clause	Amendments
		Profession Act. <ul style="list-style-type: none"> ▪ Inserts a definition of “transfer” or “transferred”, which were previously undefined.
Schedule L – Named Parties	Schedule A – List of Respondents	<ul style="list-style-type: none"> ▪ Updated to reflect agency name changes and additional respondents.