
VPS Enterprise Agreement Common Policies

PURCHASED LEAVE

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Purchased Leave | Version 1.0 | September 2018



Authority and Application

Clause 43 of the Victorian Public Service Enterprise Agreement 2016 (the Agreement), applies to Victorian Public Service Departments and Agencies (Employers) and their Employees covered by the Agreement.

Overview

Clause 43 of the Agreement sets out an Employee's entitlement to purchase additional weeks of leave each year by reducing their annual rate of pay. Once a Purchased Leave arrangement has been entered into an Employee may be granted the additional week(s) leave upfront for use within the 52 week arrangement or be granted the additional week(s) leave on an accrual basis (as agreed with the Employer).

A Purchased Leave arrangement may have taxation, superannuation or other financial implications for Employees. An Employee wishing to enter into such an arrangement is encouraged to seek their own financial advice.

Relevant provisions of the VPS Enterprise Agreement

Clause 43. Purchased Leave

- 43.1** An Employee may, with the agreement of the Employer, work less than 52 weeks per year. Access to this entitlement may only be granted on application from an Employee and cannot be required as a precondition for employment.
- 43.2** An Employee can only make an application under this clause where the Employee does not have an excessive annual leave accrual (as defined in **clause 41.6(b)(i)**).
- 43.3** Where an Employee, with an excessive annual leave accrual, wishes to make an application under this clause, the extent of the Employee's excessive annual leave accrual and any plans the Employee has to take some or all of their accrued annual leave entitlements in conjunction with any approved purchased leave arrangement, will be considered by the Employer in assessing the Employee's application for purchased leave.
- 43.4** Where the Employer and an Employee agree on an employment arrangement under **clause 43.1**, the annual salary applicable to an employee relative to the additional leave purchased will be as follows:

Proportion of annual salary applicable under Schedule B	Number of additional weeks of purchased leave	Total amount of leave (purchased and annual leave)
44/52 weeks	Additional 8 weeks' leave	12 weeks in total
45/52 weeks	Additional 7 weeks' leave	11 weeks in total
46/52 weeks	Additional 6 weeks' leave	10 weeks in total
47/52 weeks	Additional 5 weeks' leave	9 weeks in total
48/52 weeks	Additional 4 weeks' leave	8 weeks in total
49/52 weeks	Additional 3 weeks' leave	7 weeks in total
50/52 weeks	Additional 2 weeks' leave	6 weeks in total
51/52 weeks	Additional 1 weeks' leave	5 weeks in total

- (a) The above does not preclude an Employee and the Employer from agreeing to a similar type of arrangement that would provide an Employee with additional converted leave of more than eight weeks.
- (b) The Employee will receive a salary equal to the period worked (e.g. 46 weeks, 49 weeks) which will be spread over a 52 week period.
- (c) The accrual of personal/carer's leave and long service leave by the Employee shall remain unchanged.

43.5 The Employer will endeavour to accommodate Employee requests for arrangements under this clause subject to operational requirements. Where such requests are granted, the Employer will make proper arrangements to ensure that the workloads of other Employees are not unduly affected and that excessive overtime is not required to be performed by other Employees as a result of these arrangements.

43.6 An Employee may revert to ordinary 52 week employment by giving the Employer no less than four weeks' written notice. Where an Employee so reverts to 52 week employment, appropriate pro rata salary adjustments will be made.

Supplementary Guidance Information

1. Entering into a Purchased Leave arrangement

- 1.1. Purchased Leave arrangements are for a 52 week period (Purchasing Year). The cost of purchasing the additional week(s) of leave will be spread across the Purchasing Year. Requests for Purchased Leave should be made in writing.
- 1.2. Purchased Leave arrangements can either involve the additional week(s) leave purchased being:
 - (a) credited to the Employee for use during that Purchasing Year; or

- (b) accrued progressively during the Purchasing Year;
as agreed with the Employer.
- 1.3. If an Employee ceases employment during the Purchasing Year and received an upfront entitlement, the Employer will repay money foregone or the Employee must repay any excess Purchased Leave that has been taken, as the case may be.
- 1.4. Purchased Leave arrangements do not roll over from year to year.
Purchased Leave arrangements must be agreed and approved every 12 months.

2. Effect of Purchased Leave on other entitlements

- 2.1. Purchased Leave is an agreement between the Employer and Employee, to allow an Employee to use part of their annual salary to purchase additional leave. The cost of the additional leave is averaged over the twelve month Purchasing Year and paid by way of a reduced fortnightly salary. It does not alter an Employee's equivalent full-time (EFT) status. The accrual of annual leave, personal/carer's leave or long service leave is not affected by entering into a Purchased Leave arrangement.
- 2.2. Purchased Leave reduces an Employee's ordinary salary for the Purchasing Year (or agreed period) in which a Purchased Leave arrangement is in place. As such, Purchased Leave arrangements will impact on all salary based entitlements, including:
 - (a) fortnightly salary;
 - (b) higher duties allowance;
 - (c) salary paid during all periods of paid leave;
 - (d) Employer superannuation guarantee contributions to accumulation superannuation schemes;
 - (e) annual leave loading;
 - (f) all shift allowances and overtime payments; and
 - (g) any other salary based entitlement.
- 2.3. Employees who have entered into a Purchased Leave arrangement and wish to make changes to their employment arrangements (for example, changes to their hours of work) or seek to take unpaid leave of any kind, during the Purchasing Year should seek advice from their Employer's Human Resources or People and Culture Unit (or equivalent) as to the potential effects on their Purchased Leave arrangement.
- 2.4. Purchased Leave arrangements are unlikely to impact on any of the following:
 - (a) Employer contributions to Defined Benefits Schemes (however, Purchased Leave may be a factor in the calculation of the 'Final Average Salary' as the basis for calculating the Employee's superannuation benefit upon retirement);
 - (b) any personal after tax contributions to superannuation;

- (c) any pre-tax salary sacrifice to superannuation or any other salary packaging arrangements; or
 - (d) any Employee authorised deductions, such as for health insurance premiums or Myki travel cards.
- 2.5. Employees should seek independent financial advice on the financial implications of entering into a Purchased Leave arrangement, including on their superannuation and taxation arrangements.
 - 2.6. Employees may wish to consider other options to seeking to enter into a Purchased Leave arrangement, such as applying for annual leave at half pay, leave without pay or flexible working arrangements to avoid the impact of Purchased Leave on their salary and other entitlements.

3. Taking Purchased Leave

- 3.1. Unless otherwise agreed, all Purchased Leave must be taken in the Purchasing Year to which it relates. Unused Purchased Leave at the end of the Purchasing Year will be paid back to the Employee, unless otherwise approved.
- 3.2. Purchased Leave entitlements must be taken at a suitable time having regard to the operational requirements of the Employer and the personal needs of the Employee.
- 3.3. Purchased Leave cannot be taken at half pay and does not attract annual leave allowance.

4. Reversion to 52 weeks mode of employment

An Employee will automatically revert to a 52 week mode of employment at the completion of the Purchased Leave arrangement.

Making decisions under this policy

Under section 20(1) of the *Public Administration Act 2004*, the public service body head has all the rights, powers, authorities and duties of an Employer, which will usually be delegated to staff within their Department or Agency. Employers should ensure that any actions under this policy are only taken by an Employee with the delegation to do so. Each Department and Agency should give effect to this policy in accordance with its own delegations.

Dispute resolution

An Employee who is directly affected by a decision made or action taken pursuant to clause 43 may apply for a review of actions under the Employer's review of actions policy or seek to resolve a dispute through the Resolution of Disputes procedure at clause 12 of the Agreement.

Further Information

Employees should refer to their Department or Agency's intranet for information on procedural requirements, systems and approval delegations.

For further information and advice please contact your local Human Resources or People and Culture Unit (or equivalent).

Related policies or documents

VPS Enterprise Agreement Common Policies

- Annual Leave
- Leave Without Pay
- Right to Request Flexible Working Arrangements

All policies in the VPS Enterprise Agreement Common Policies collection, can be found at <https://vpsc.vic.gov.au/vps-enterprise-agreement-common-policies/>