

**WESTERN AUSTRALIA POLICE TRAFFIC ESCORT WARDENS  
INDUSTRIAL AGREEMENT 2007**

**AG 6 of 2008**

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**INDUSTRIAL AGREEMENT 2007**

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This agreement shall be known as the Western Australia Police Traffic Escort Wardens Industrial Agreement 2007.

**2. ARRANGEMENT**

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### **3. DEFINITIONS**

For the purposes of the agreement, the following definitions shall apply.

- a) “Traffic Escort Warden” means an employee whose wages and conditions of employment are specified herein.
- b) “Agency” means Western Australian Police.
- c) “Award” means the Transport Workers (Government) Award 1952.
- d) “WAPOL” means Western Australian Police.
- e) “Employee” means a Traffic Escort Warden.
- f) “Employer” means the Commissioner of Police.
- g) “Agreement” means the Western Australia Police Traffic Escort Wardens Industrial Agreement 2007

- h) "Union" means the Transport Workers Union of Australia, Industrial Union of Workers, Western Australian Branch.
- i) "WAIRC" means the Western Australian Industrial Relations Commission.
- j) "Metropolitan Area" means that area within a fifty (50) kilometre radius of the Perth City Railway Station.
- k) "Part Time Employee" means an employee who is regularly employed to work less than forty (40) hours per week.
- l) "Public Holidays" means the following days, or the days observed in lieu thereof, namely: New Year's Day, Australia Day, Good Friday, Easter Monday, Anzac Day, Labour Day, Foundation Day, Sovereign's Birthday, Christmas Day and Boxing Day. Provided that another day may be taken as a holiday by arrangement between the parties, in lieu of any of the days named herein.
- m) 'Weekly leave day' means any day of the week on which an employee is not rostered to work.

#### **4. PURPOSE OF AGREEMENT**

The parties agree that the purpose of the agreement is to:

- a) Effect wage increases in accordance with the agreement, for employees bound by the agreement; as at date of registration.
- b) In conjunction with the award, provide a set of employment conditions for employees bound by the agreement.

#### **5. APPLICATION AND PARTIES BOUND**

- 5.1 The parties bound by the agreement are the Transport Workers Union of Australia, Industrial Union of Workers, Western Australian Branch and the Commissioner of Police.
- 5.2 The agreement shall apply to all employees who are members of or eligible to be members of the Union. At the date of registration, the approximate number of employees bound by the agreement is nine.
- 5.3 The agreement shall be read in conjunction with the Transport Workers (Government) Award 1952. The provisions of the award shall be incorporated with this agreement but where the provisions of the award and the agreement are inconsistent, the provisions of the agreement shall prevail.

#### **6 TERM OF AGREEMENT**

- 6.1 This agreement will operate from the first pay period commencing on or after the date of registration in accordance with Section 41 of the *Industrial Relations Act 1979* and will expire on 31 December 2009.

6.2 The parties to the agreement agree to re-open negotiations for a replacement agreement at least six (6) months prior to the expiry of the agreement with a view to implement a replacement agreement operative from 1 January 2010.

## **7. NO FURTHER CLAIMS**

7.1 The parties to the agreement undertake that for the term of the agreement there will be no wage increases sought or granted other than those provided under the terms of the agreement. This includes wage adjustments arising out of State Wage Orders. Such increases are to be absorbed in the salaries set out in the agreement in accordance with the provisions of subclauses 7.2.

7.2 The parties to the agreement undertake that for the term of the agreement there will be no further claims on matters contained in the agreement except where specifically provided for.

## **8 TERMS OF EMPLOYMENT - PROBATION**

8.1 Employees appointed to the position of Traffic Escort Warden shall be on probation for a period not exceeding three months.

8.2 An officer who is appointed from the Public Sector of Western Australia, and who has had at least three months of continuous satisfactory service immediately prior to permanent appointment as a Traffic Escort Warden will not be required to serve a period of probation.

8.3 At any time during the period of probation the employer may annul the appointment and terminate the services of the officer by the giving of one week's notice or payment in lieu thereof.

8.4 Prior to the expiry of the period of probation, the employer shall have a report completed in respect to the officer's level of performance, efficiency and conduct and

- (i) confirm the permanent appointment, or
- (ii) extend the period of probation by up to three months, to a maximum period of probation of six months
- (iii) or terminate the services of the officer.

## **PART 2: HOURS OF WORK, WAGES AND ASSOCIATED ALLOWANCES**

### **9. HOURS**

9.1 The ordinary hours of work shall be forty (40) per week, inclusive of meal breaks and shall be worked between the hours of 6.00am and 6.00pm on any day of the week.

9.2 The ordinary hours of work shall not exceed eight (8) hours on any one (1) day. Employees must take breaks in accordance with the Operating Standards for Work and Rest in Road Transport.

9.3 Employees working during their prescribed hours of duty on a Saturday, Sunday or Public Holiday will attract the following payment for all ordinary hours worked:

- (i) Saturdays - time and a half
- (ii) Sundays - time and three quarters
- (iii) Public Holidays - double time and a half.

Provided that, subject to election by the employee, work performed during ordinary rostered hours on up to five (5) public holidays a year shall be paid for at the rate of time and a half and the employee will, in addition, be allowed a day's leave with pay to be added to annual leave or to be taken at some other time within a period of one year.

9.4 An employee who, through no fault of their own, is unable to continue with their rostered hours of duty due to unforeseen operational contingencies shall be paid a minimum of eight (8) hours for that day.

9.5 Rostered hours of duty may be altered by the employer giving twenty-four (24) hours notice to the employee, or a lesser period as agreed to by the employer and the employee.

9.6 Rostered hours of duty cannot be altered retrospectively by the employer.

9.7 Weekly leave can only be rostered to be taken in the Perth Metropolitan area.

## **10. OVERTIME**

10.1 An employee may be required to work reasonable overtime in accordance with operational requirements and such employee shall work overtime in accordance with such requirement.

10.2 All hours worked in excess of eight (8) hours Monday to Friday shall stand alone and be paid for at the rate of time and a half of the ordinary base hourly rate for the first two hours and double time based on the ordinary base hourly rate thereafter.

10.3 All hours worked in excess of eight (8) hours on a Saturday and Sunday, if those days are a normal rostered day of work, shall be paid for at the rate of double time of the ordinary base hourly rate.

10.4 An employee requested to work overtime on a weekly leave day being any day of the week, shall be paid at the rate of time and a half for the first two hours and double time thereafter, provided that all time worked after midday Saturday and Sunday (should the overtime be on these days) shall be paid for at the rate of double time.

10.5 An employee recalled to work after leaving the employer's business premises shall be paid for a minimum of four (4) hours inclusive of travelling time at the rate prescribed in subclause 10.2 and 10.3.

## **11. SHIFT ALLOWANCE**

To allow for the possibility of Main Roads permitting the transportation of oversized loads outside the hours of daylight, shift work provisions have been incorporated into this Agreement. They will only apply if and when WA Police are advised that oversized loads are able to be moved outside the hours of daylight. Further consultation with all parties will take place prior to implementing shift work provisions.

11.1 For the purposes of this clause 'afternoon shift' is defined as a shift commencing at or after 12 noon and before 6pm and night shift is defined as a shift commencing at or after 6pm and before 6.01am.

11.2 An employee required to work an afternoon shift will receive a shift penalty of an amount equivalent to 15% of the rate of pay for which they are ordinarily entitled. An employee required to work a night shift will receive a shift penalty of an amount equivalent to 20% of the rate of pay for which they are ordinarily entitled.

11.3 Accordingly, the proposed shift penalties are:

	<b>Shift Penalty 26 Feb 2007</b>	<b>Shift Penalty 2008</b>	<b>Shift Penalty 2009</b>
<b>Afternoon Shift (15%)</b>	Amount payable per 8 hour shift		
	\$28.64	An amount equivalent to 15% of the daily rate based on the Level 2.5 (maximum Level 2 rate) Public Service General Agreement rate, as amended from time to time	An amount equivalent to 15% of the daily rate based on the Level 2.5 (maximum Level 2 rate) Public Service General Agreement rate, as amended from time to time

<b>Night Shift (20%)</b>	Amount payable per 8 hour shift		
	\$38.18	An amount equivalent to 20% of the daily rate based on the Level 2.5 Public Service General Agreement rate, as amended from time to time	An amount equivalent to 20% of the daily rate based on the Level 2.5 Public Service General Agreement rate, as amended from time to time

## 12. WAGES

12.1 The wages provided for by the agreement shall be those contained in Schedule 2 and shall provide for increases:

(a) from the first pay period on or after 26 February 2007;

(b) from the first pay period on or after the date at which the Public Service General Agreement rate increases in 2008; and

(c) from the first pay period on or after the date at which the Public Service General Agreement rate increases in 2009.

### **13. CAMPING ALLOWANCES**

#### 13.1 Definitions.

"Camp of a Permanent Nature" for the purposes of Clause 13. - Camping Allowances means single room accommodation in skid mounted or mobile type units, caravans, or barrack type accommodation or a vessel where the following are provided in the camp:-

- Water is freely available;
- Ablutions including a toilet, shower or bath and laundry facilities;
- Hot water system;
- A kitchen, including a stove and table and chairs, except in the case of a caravan equipped with its own cooking and messing facilities;
- An electricity or power supply; and
- Beds and mattresses except in the case of caravans containing sleeping accommodation.

For the purpose of this definition caravans located in caravan parks or other locations where the above are provided shall be deemed a camp of permanent nature.

"Camp other than a Permanent Camp" for the purposes of Clause 13. - Camping Allowances means a camp where any of the requirements defined in a "camp of a permanent nature" are not provided.

13.2 An employee who is stationed in a "camp of a permanent nature" shall be paid the appropriate allowance prescribed by Item A1 or Item A2 of Schedule 3 – Camping Allowances for each day spent camping.

13.3 An employee who is stationed in a "camp - other than a permanent camp" or is required to camp out shall be paid the appropriate allowance prescribed in Schedule 3 – Camping Allowances for each day spent camping.

13.4 Where to contain the additional travelling costs and/or to avoid lost working time associated with returning to a location where accommodation is available or to ensure the security and safety of a vehicle or other equipment an employee camps beside or sleeps inside the vehicle when escorting trucks conveying heavy machinery or equipment such employee shall be paid the appropriate allowance prescribed in the Schedule 3 – Camping Allowances for each day spent camping.

13.5 An employee who occupies a house shall not be entitled to allowances prescribed by this clause.

13.6 An employee accommodated at a Government institution, hostel or similar establishment shall not be entitled to allowances prescribed by this clause.

13.7 Where an employee is provided with food and/or meals by the employer free of charge, then the employee shall only be entitled to receive one half (1/2) of the appropriate allowance to which the employee would otherwise be entitled for each day spent camping.



- 13.8 When camping, an employee shall be paid the allowance on weekly leave days if available for work immediately preceding and succeeding such days and no deduction shall be made under these circumstances when an employee does not spend the whole or part of those days in camp unless the employee is reimbursed under the provisions of Clause 14. – Travelling Allowances of this agreement.
- 13.9.1 This clause shall be read in conjunction with Clause 14. - Travelling Allowances of this agreement for the purpose of paying allowances, and camping allowance shall not be paid for any period in respect of which travelling allowances are paid. Where portions of a day are spent camping, the formula contained in subclause (4) of Clause 14. - Travelling Allowances of this agreement shall be used for calculating the portion of the allowance to be paid for that day.
- 13.9.2 For the purposes of this subclause arrival at headquarters shall mean the time of actual arrival at camp. Departure from headquarters shall mean the time of actual departure from camp or the time of ceasing duty in the field subsequent to breaking camp, whichever is the latter.
- 13.10 An employee in receipt of an allowance under this clause shall not be entitled to receive the incidental allowance prescribed by Clause 14. - Travelling Allowances of this agreement.
- 13.11 Whenever an employee provided with a caravan is obliged to park the caravan in a caravan park such employee shall be reimbursed the rental charges paid to the authority controlling the caravan park, in addition to the payment of camping allowance.
- 13.12 There is no requirement on the employer to provide food, camping equipment or cooking utensils. Each of the allowances prescribed in Schedule 3 includes a component for the employee providing his or her own food, camping equipment and cooking utensils and as compensation for the degree of disability the employee is subject to associated with the nature of work and accommodation utilised.

#### **14. TRAVELLING ALLOWANCES**

Should an employee travel on official business he or she shall be reimbursed reasonable expenses on the following basis:-

- 14.1 When a trip necessitates an overnight stay away from headquarters and the employee is supplied with accommodation and meals free of charge reimbursement shall be in accordance with the rates prescribed at Items (1), (2) or (3) of Schedule 4 - Travelling Allowances. Such accommodation and meals shall be of an acceptable standard, where available.
- 14.2 When a trip necessitates an overnight stay away from headquarters and the employee is fully responsible for his or her own accommodation, meals and incidental expenses and hotel, motel or road house accommodation is utilised reimbursement shall be in accordance with the rates prescribed at Items (4) to (8) of Schedule 4 - Travelling allowances.
- 14.3 When a trip necessitates an overnight stay away from headquarters and the employee is fully responsible for his or her own accommodation, meals and incidental expenses and accommodation other than camping or that covered in subclause (1) or subclause

(2) of this clause is utilised, reimbursement shall be in accordance with the rates prescribed at Items (9), (10) or (11) of Schedule 4 - Travelling Allowances.

14.4 To calculate reimbursement under subclause (1), subclause (2) and subclause (3) of this clause for a part of a day, the following formulae shall apply:-

- (a) If departure from headquarters is:
  - before 8.00am - 100% of the daily rate;
  - 8.00am or later but prior to 1.00pm - 90% of the daily rate;
  - 1.00pm or later but prior to 6.00pm - 75% of the daily rate;
  - 6.00pm or later - 50% of the daily rate.
- (b) If arrival back at headquarters is:
  - 8.00am or later but prior to 1.00pm - 10% of the daily rate;
  - 1.00pm or later but prior to 6.00pm - 25% of the daily rate;
  - 6.00pm or later but prior to 11.00pm - 50% of the daily rate;
  - 11.00pm or later - 100% of the daily rate.
- (c) The rate to be applied is that applicable for the locality/town in which the employee stays overnight, except for the final day or part thereof which is calculated at the rate for the previous overnight location.

14.5 When a trip necessitates an overnight stay away from headquarters and the employee is provided with accommodation free of charge but only some or no meals free of charge, reimbursement shall be at the rate prescribed at Items (1), (2) or (3) of Schedule 4 - Travelling Allowances or for part of the day as proportioned in subclause (4) of this clause and reimbursed for the appropriate breakfast, lunch or dinner not provided free of charge in accordance with the breakfast, lunch or dinner rates prescribed at Items (12), (13) or (14) of Schedule 4 - Travelling allowances.

14.6 Reimbursement of expenses shall not be suspended should the employee become ill whilst travelling, provided such illness is recognised and approved in accordance with the provisions of this agreement and the employee continues to incur accommodation, meal and incidental expenses.

14.7 Reimbursement claims for travelling in excess of fourteen (14) days in one (1) month shall not be passed for payment by a certifying employee unless the employer or his nominee has endorsed the account.

14.8 Where the employee claims reimbursement for meals or the daily rate specified for hotel or motel at Items (4) to (14) of Schedule 4 – Travelling Allowances the employee shall certify that the meals were purchased or hotel or motel accommodation was actually utilised. The employee may be required to produce receipts or other evidence to substantiate any claim. Meal allowances shall not apply where a meal is supplied without charge to the employee.

14.9 When it can be shown to the satisfaction of the Employer by the production of receipts that reimbursement in accordance with Schedule 4 – Travelling Allowances does not cover the employee's reasonable expenses for a whole trip the employee shall be reimbursed the excess expenditure.

## **15. PAYMENT OF WAGES**

15.1 Wages shall be paid fortnightly.

- 15.2 The hourly rate shall be computed as one fortieth of the week's wages.
- 15.3 Wages shall be paid by direct funds transfer to the credit of an account nominated by the employee at a bank, building society or credit union approved by the Under Treasurer or an accountable employee.
- 15.4 (a) Any overpayments made in a given pay period will be deducted from the following pay period or periods at the same rate at which it was initially overpaid.
- (b) If a deduction should cause undue financial hardship a lesser rate of repayment may be negotiated.

## **16. SALARY PACKAGING**

- 16.1 An employee may, by agreement with the employer, enter into a salary packaging arrangement in accordance with this clause and Australian Taxation Office requirements.
- 16.2 Salary packaging is an arrangement whereby the entitlements and benefits under this agreement, contributing toward the Total Employment Cost (TEC) (as defined in subclause 16.3) of an employee, can be reduced by and substituted with another or other benefits.
- 16.3 The TEC for salary packaging purposes is calculated by adding the following entitlements and benefits:
- a) the base wage;
  - b) other cash allowances;
  - c) non cash benefits;
  - d) any Fringe Benefit Tax liabilities currently paid;
  - e) any variable components.
- 16.4 Where an employee enters into a salary packaging arrangement the employee will be required to enter into a separate written agreement with the employer setting out the terms and conditions of the salary packaging arrangement.
- 16.5 Notwithstanding any salary packaging arrangement, the wage rate as specified in the agreement is the basis for calculating wage related entitlements specified in the agreement and the award.
- 16.6 Compulsory Employer Superannuation Guarantee contributions are to be calculated in accordance with applicable federal and state legislation. Compulsory employer contributions made to superannuation schemes established under the *State Superannuation Act 2001* and the *Parliamentary Superannuation Act 1970* are calculated on the gross (pre-packaged) salary amount regardless of whether an employee participates in a salary packaging arrangement with their employer.
- 16.7 A salary packaging arrangement cannot increase the costs to the employer of employing an individual.

16.8 A salary packaging arrangement is to provide that the amount of any taxes, penalties or other costs for which the employer or employee is or may become liable for and are related to the salary packaging arrangement shall be borne in full by the employee.

16.9 In the event of any increase in taxes, penalties or costs relating to a salary packaging arrangement, the employee may vary or cancel that salary packaging arrangement.

## **17 TRAINEESHIPS**

### **17.1 Definitions**

a) "Part time trainee" means a trainee who is employed for a minimum of 20 hours per week (except in the case of school based traineeships) and has regular and stable hours of work each week to allow training to occur. Wages and entitlements accrue on a pro-rata basis.

b) "Traineeship" means a full time or part time structured employment based training arrangement approved by the Western Australian Department of Education and Training where the trainee gains work experience and has the opportunity to learn new skills in a work environment. On successful completion of the traineeship, the trainee obtains a nationally recognised qualification.

c) "Traineeship Training Contract" means the agreement between the employer and the trainee that provides details of the traineeship and the obligations of the employer and trainee and is registered with the Western Australian Department of Education and Training.

d) "Training Plan" means the plan that outlines what training and assessment will be conducted off-the-job and what will be conducted on-the-job, and how the Registered Training Organisation will assist in ensuring the integrity of both aspects of the training and assessment process.

17.2 Trainees are to be additional to the normal workforce of the employer so that trainees shall not replace paid workers or volunteers or reduce the hours worked by existing employees.

17.3 The arrangements between the employer and the trainee in relation to training are as specified in the Traineeship Training Contract, as administered by the Department of Education and Training. The trainee will be trained in accordance with the agreed Training Plan.

### **17.4 Employment Conditions:**

a) The initial period of employment for trainees is the nominal training period endorsed at the time the particular traineeship is established.

b) Completion of the traineeship scheme will not guarantee the trainee future employment in the public sector, but the employer will cooperate to assist the trainee to be placed in suitable employment, should a position arise.

c) Trainees are permitted to be absent from work without loss of continuity of employment to attend off the job training in accordance with the Training

Plan. However, except for absences provided for under the agreement and the award, failure to attend for work or training without an acceptable cause may result in loss of pay for the period of the absence.

- d) Trainees will receive a mix of supervised work experience, structured training on the job and off the job, and the opportunity to practice new skills in a work environment.
- e) Overtime and shift work shall not be worked by trainees except to enable the requirements of the training to be effected. When overtime and shift work are worked the relevant allowances and penalties of the Award, based on the training wage stated in subclause 13.5 will apply. No trainee shall work overtime or shift work unsupervised.

17.5 The wages applicable to trainees shall be as prescribed in the National Training Wage 2000 for employees up to and including 20 years of age. Adult trainees will be paid the rate prescribed under the *Minimum Conditions of Employment Act 1993* for the minimum weekly rate of pay for employees 21 or more years of age.

### **PART 3: LEAVE OF ABSENCE**

#### **18 ANNUAL LEAVE**

- (1) Except as hereinafter provided, a period of four consecutive weeks' leave shall be allowed to an employee, by his employer after each period of 12 months continuous service with such employer.
- (2) Annual leave accrues weekly at the rate of 3.08 hours per completed week of service for a full time employee and on a proportionate basis for a part time employee.
- (3) The employee shall be paid for any period of annual leave prescribed by the clause at the ordinary rate of wage the employee has received for the greatest proportion of the calendar month prior to taking the leave and in the case of rostered employees, that rate of wage shall include the weekend penalties the employee would have received had the employee not proceeded on annual leave.
- (4) An employee may, with the approval of the employer, be allowed to take the annual leave prescribed by this clause before the completion of 12 months' continuous service as prescribed by subclause (1) of this clause.

Provided that when an employee has proceeded on leave prior to the completion of the 12 months' continuous service the loading prescribed in subclause (8) of this clause shall be paid on a pro rata basis.

- (5) Subject as hereinafter provided:
  - (a) If after one months' continuous service in any qualifying 12 monthly period an employee lawfully terminates his service, or his employment is terminated by the employer through no fault of the employee, the employee shall be paid 2.92 hours or in the case of employees provided for in subclause (6) of this clause, 3.65 hours in respect of each completed week of continuous service in that qualifying period.

- (b) If an employee terminates and the employee has taken a period of leave in accordance with subclause (3) of this clause, and if the period of leave so taken exceeds that which would become due pursuant to paragraph (a) of this subclause, the employee shall be liable to repay an amount received by the employee for the period of leave taken in accordance with subclause (3) of this clause and the amount which would have accrued in accordance with paragraph (a) of this subclause. The employer may deduct this amount from moneys due to the employee by reason of the other provisions of this award at the time of termination.
  - (c) In addition to any payment to which employees may be entitled under subclause (4) of this clause, an employee whose employment terminates after completion of a 12-month qualifying period and who has not been allowed the leave prescribed under this award in respect of that qualifying period, shall be given payment as prescribed in subclauses (2) and (8) of this clause, in lieu of that leave unless they have been justifiably dismissed for misconduct and the misconduct for which they have been dismissed occurred prior to the completion of that qualifying period.
- (6) Shift employees shall be allowed one week's leave in addition to that prescribed in subclause (1) of this clause with respect to each period of 12 months' continuous service.
  - (7) When computing the annual leave due under this clause, no deduction shall be made from such leave in respect of the period an employee is on annual leave, long service leave, observing a public holiday prescribed by this award, absent through sickness with or without pay except for that portion of an absence that exceeds three months, or absent on workers' compensation, except for that portion of an absence that exceeds six months in any year.
  - (8) Annual Leave Loading:
    - (a) An employee shall be paid a loading of 17.5 per cent calculated on the rate as prescribed in subclause (2) of this clause.
    - (b) The loading prescribed in this subclause shall not apply to proportionate leave on termination.
    - (c) The loading prescribed in this subclause shall be payable on retirement, provided the employee is over 55 years of age.
  - (9) The provisions of this clause shall not apply to casual employees.
  - (10) An employee may request and with the consent of the employer, take short term Annual Leave.

## **19 LONG SERVICE LEAVE**

- 19.1 The State Government Long Service Leave General Order shall apply to employees appointed as Traffic Escort Wardens.
- 19.2 Long service leave flexibilities

a) Continuity of service:

Long service leave taken in accordance with this clause shall not be excised for the purpose of continuous service.

b) Access to accrued long service leave entitlement:

Employees may, by agreement with their employer, clear any accrued entitlement to long service leave in minimum periods of one day.

c) Long service leave on half pay:

Employees may, by agreement with their employer, access any portion of an accrued entitlement to long service leave on half pay for double the period accrued. In these circumstances, the leave actually taken is double the accrued entitlement accessed.

d) Long service leave on double pay:

Employees may, by agreement with their employer, access any portion of an accrued entitlement to long service leave on double pay for half the period accrued. In these circumstances, the leave actually taken is 50 percent of the accrued entitlement accessed.

e) Access to pro rata long service leave:

(i) Employees accessing long service leave on a ten (10) year basis and being within ten (10) years of their preservation age under Western Australian Government superannuation arrangements, may by agreement with their employer, choose to access pro rata long service leave at the rate of 6.5 days per completed 12 month period of continuous service.

(ii) Employees accessing long service leave on a seven (7) year basis and being within seven (7) years of their preservation age under Western Australian Government superannuation arrangements, may by agreement with their employer, choose to access pro rata long service leave at the rate of 9.28 days per completed 12 month period of continuous service.

(iii) Under this subclause access to pro rata long service leave can only be taken as paid leave and there is no capacity for payment in lieu of leave.

## **20. PARENTAL LEAVE**

### **20.1 Definitions**

For the purposes of this clause, the following terms shall have the following meaning:

20.1.1 “child”: all references in this clause to a child should be read as including children of a multiple birth or adoption.

20.1.2 “employee” means a person employed by an employing authority in the public sector and includes full time, part time, permanent and eligible casual employees, and fixed term contract employees for the duration of their contract.

20.1.3 “employer” means an employing authority in the public sector as defined by the *Public Sector Management Act 1994*.

20.1.4 “eligible casual employee”: a casual employee is eligible if the employee:

(a) has been engaged by a public sector employer on a regular and systematic basis for a sequence of periods of employment during a period of at least 12 months; and

(b) but for an expected birth of a child to the employee or the employee’s spouse or de facto partner or an expected placement of a child with the employee with a view to the adoption of the child by the employee, would have a reasonable expectation of continuing engagement by the public sector employer on a regular and systematic basis.

(c) Without limiting subclause 20.1.4 (a) and (b), a casual employee is also eligible if the employee:

(i) was engaged by a public sector employer on a regular and systematic basis for a sequence of periods during a period (the first period of employment) of less than 12 months; and

(ii) at the end of the first period of employment, the employee ceased, on the employer’s initiative, to be so engaged by the public sector employer; and

(iii) the public sector employer later again engaged the employee on a regular and systematic basis for a further sequence of periods during a period (the second period of employment) that started not more than three months after the end of the first period of employment; and

(iv) the combined length of the first period of employment and the second period of employment is at least 12 months; and

(v) the employee, but for an expected birth of a child to the employee or the employee’s spouse or de facto partner or an expected placement of a child with the employee with a view to adoption of the child by the employee, would have a reasonable expectation of continuing engagement with the public sector employer on a regular and systematic basis.

20.1.5 “primary care giver” means the employee who will assume the principal role for the care and attention of a newly born or newly adopted child as defined by this clause.

20.1.6 “replacement employee” means an employee specifically engaged to replace an employee proceeding on parental leave.

20.1.7 “partner” means a person who is a spouse or de facto partner.

20.1.8 “public sector” means all agencies, ministerial offices and non-SES organisations as defined in section 3 of the *Public Sector Management Act 1994*.

## 20.2 Entitlement to Parental Leave

### 20.2.1 Unpaid parental leave

An employee is entitled to a period of up to 52 weeks unpaid parental leave in respect of the:



- (a) birth of a child to the employee or the employee's partner; or
- (b) adoption of a child who is not the natural child or the stepchild of the employee or the employee's partner; is under the age of five; and has not lived continuously with the employee for six months or longer.

#### 20.2.2 Paid parental leave

- (a) Subject to 20.2.2 (b) and 20.2.6, an employee is entitled to paid parental leave as follows:
  - (i) 12 weeks continuous paid parental leave from 1 July 2007; and
  - (ii) 14 weeks continuous paid parental leave from 1 July 2008.
- (b) The paid parental leave entitlement provided in 20.2.2 (a):
  - (i) can be accessed by a pregnant employee in accordance with 20.2.6 (a);
  - (ii) can only be accessed by an employee who is the primary care giver of a newly born or newly adopted child;
  - (iii) can only be accessed by an employee who has completed 12 months continuous service in the Western Australian public sector;
  - (iv) is provided only in respect to the:
    - birth of a child to the employee or the employee's partner; or
    - adoption of a child who is not the natural child or the stepchild of the employee or the employee's partner; is under the age of five; and has not lived continuously with the employee for six months or longer;
  - (v) cannot be accessed by eligible casual employees; and
  - (vi) forms part of the 52 week unpaid parental leave entitlement provided in 20.2.1 Unpaid Parental Leave.
- (c) The quantum of paid parental leave available to an employee is determined according to the quantum that applied at the date of commencement of the employee's period of paid or unpaid parental leave.

20.2.3 An employee may take the paid parental leave specified in 20.2.2 – Paid Parental Leave at half pay for a period equal to twice the period to which the employee would otherwise be entitled.

20.2.4 The period of paid parental leave taken by the primary care giver of a newly born or newly adopted child shall not exceed the period specified in 20.2.2 – Paid Parental Leave or its half pay equivalent.

20.2.5 (a) Paid parental leave will count as qualifying service for all purposes under any relevant award, agreement or industrial instrument.

(b) Qualifying service for any purpose under any relevant award, agreement or industrial instrument is to be calculated according to the number of weeks of paid parental leave that were taken at full pay or would have been had the employee not taken paid parental leave at half pay. Employees who take paid parental leave on half pay do not accrue award,

agreement or other entitlements beyond those that would have accrued had they taken the leave at full pay.

#### 20.2.6 Commencement of paid parental leave

(a) A pregnant employee may commence paid parental leave any time up to six weeks before the expected date of birth.

(b) Provided that the period of paid parental leave is concluded within 12 months of the birth or placement of the child, an employee identified as the primary care giver of a newly born or newly adopted child may commence the period of paid parental leave from:

(i) the child's birth date; or

(ii) for the purposes of adoption, the date of placement of the child; or

(iii) a later date nominated by the primary care giver.

(c) Notwithstanding 20.2.6 (b), an employer may, in exceptional circumstances, allow an employee to take a period of paid parental leave as prescribed in 20.2.2 – Paid Parental Leave that will result in the employee being on paid parental leave more than 12 months after the birth or placement of the employee's child.

(d) An employer may require evidence that would satisfy a reasonable person that the circumstances warrant allowing the employee to take their period of paid parental leave such that it will result in the employee being on paid parental leave more than 12 months after the birth or placement of the employee's child.

#### 20.2.7 Shared parental leave

(a) Subject to 20.2.7 (b), the paid parental leave entitlement may be shared between partners assuming the role of primary care giver of a newly born or newly adopted child.

(b) Where both partners work in the public sector, the total paid parental leave entitlement provided to the employees shall not exceed the paid parental leave quantum for a single employee as specified in 20.2.2 – Paid Parental Leave or its half pay equivalent.

(c) The unpaid parental leave entitlement may be shared between partners.

(d) An employee and their partner may only take paid and/or unpaid parental leave concurrently in exceptional circumstances with the approval of the employer or in accordance with 20.2.13 (c).

#### 20.2.8 (a). An employee must take parental leave in one continuous period.

Where less than the standard parental leave is taken the unused portion of the period of paid or unpaid leave cannot be preserved in any way.

(b) Notwithstanding 20.2.8 (a):

(i) paid parental leave may be taken in more than one continuous period by an employee who meets the requirements of 20.2.13; and

(ii) unpaid parental leave may be taken in more than one continuous period where the employee undertakes special temporary or casual employment in accordance with 20.9 – Employment During Unpaid Parental Leave. In these circumstances, the provisions of 20.9 – Employment During Unpaid Parental Leave apply.

#### 20.2.9 Payment for paid parental leave

(a) Subject to 20.2.9 (b), an employee proceeding on paid parental leave is to be paid according to their ordinary working hours at the time of commencement of parental leave. Shift and weekend penalty payments and higher duties allowances are not payable during paid parental leave.

(b) Payment for a part time employee proceeding on paid parental leave is to be determined according to:

(i) an average of the hours worked by the employee over the preceding 12 months; or

(ii) their ordinary working hours at the time of commencement of paid parental leave; whichever is the greater.

(c) An employee may elect to receive pay in advance for the period of paid parental leave at the time the parental leave commences, or may elect to be paid the entitlement on a fortnightly basis over the period of the paid parental leave.

20.2.10 (a) An employee is eligible, without concluding their parental leave and resuming duty, for subsequent periods of parental leave, including paid parental leave, in accordance with the provisions of this clause.

(b) Where an employee has not concluded their period of parental leave and resumed duty, and the employee is entitled to a subsequent period of paid parental leave, the employee's paid parental leave is:

(i) to be paid according to the employee's status and classification at the time of commencing the original period of parental leave; and

(ii) not affected by any period of special temporary or casual employment undertaken in accordance with 20.9 – Employment During Unpaid Parental Leave.

#### 20.2.11 Medical certificates

(a) An employee who has given their employer notice of their intention to take paid or unpaid parental leave, or unpaid partner leave shall provide the employer with a medical certificate from a registered medical practitioner naming the employee, or the employee's partner, confirming the pregnancy and the estimated date of birth.

(b) A pregnant employee who continues to work during the period of six weeks before the expected date of birth is not required to provide their employer with a medical certificate stating that the employee is fit to work and whether it is advisable for the employee to continue in her present position for a stated period.

(c) Notwithstanding 20.2.11 (b), where an award or agreement provides an employer with the discretion to request a medical certificate in relation to a pregnant employee who continues to work during the period of six weeks before the expected date of birth, the award or agreement provisions shall prevail.

20.2.12 If the pregnancy results in other than a live child or the child dies during the period of paid parental leave, the entitlement to paid parental leave as provided in 20.2.2 – Paid Parental Leave remains intact. Such paid parental leave cannot be taken concurrently with paid sick or personal leave taken in accordance with subclause 20.4.4 - Sick or Personal Leave.

20.2.13 Paid parental leave when the mother is, for any period of her leave, incapable of being her child's primary care giver

(a) An employee who commenced paid parental leave prior to her child's birth and:

(i) who is incapacitated following the birth of her child and is therefore incapable of being its primary care giver; or

(ii) whose child requires hospitalisation such that the employee and her partner are not their child's primary care giver; is entitled to remain on paid parental leave, notwithstanding that she is not the child's primary care giver.

(b) An employee is not entitled to access paid parental leave when they are not their child's primary care giver other than in the circumstances identified in 20.2.13 (a).

(c) If both parents work in the public sector and the mother is able to remain on paid parental leave in accordance with 20.2.13 (a)(i), the employees may choose which parent will access paid parental leave.

(i) If the mother chooses to remain on paid parental leave, her partner may access unpaid parental leave for the period they are their child's primary care giver.

(ii) If the mother's partner is their child's primary care giver and chooses to access paid parental leave, the mother may access unpaid parental leave for the period her partner is their child's primary care giver.

(iii) Where the mother's partner accesses paid parental leave in accordance with 20.2.13 (c)(ii), the mother is entitled to resume paid parental leave if/when she becomes her child's primary care giver, subject to the provisions of 20.2.7 (b) –

Shared Parental Leave.

(iv) If the mother resumes paid parental leave in accordance with 20.2.13 (c)(iii), her partner must cease paid parental leave.

(d) An employee is not entitled to access the provisions of 20.2.13 (c) in the circumstances identified in 20.2.13 (a)(ii).

#### 20.2.14 Adoption of a child

(a) An employee seeking to adopt a child shall be entitled to two days unpaid leave to attend interviews or examinations required for the adoption procedure. Employees working or residing outside the Perth metropolitan area are entitled to an additional day's unpaid leave. The employee may take any paid leave entitlement to which the employee is entitled in lieu of this leave.

(b) If an application for parental leave has been granted for the adoption of a child, which does not eventuate, then the period of paid or unpaid parental leave is terminated. Employees may take any other paid leave entitlement to which they are entitled in lieu of the terminated parental leave or return to work.

#### 20.2.15 Confirmation of primary care giver status

(a) For the purposes of 20.2.2 – Paid Parental Leave, an employer may require an employee to provide confirmation of their primary care giver status.

(b) Where an employer requires an employee to confirm their status as the primary care giver of a newly born or newly adopted child, the employee is to provide the employer with evidence that would satisfy a reasonable person of the entitlement to paid parental leave. Such evidence may include a medical certificate or statutory declaration.

### 20.3 Partner Leave

20.3.1 An employee is entitled to unpaid partner leave as prescribed by this subclause in respect of the:

(a) birth of a child to the employee or the employee's partner; or

(b) adoption of a child who is not the natural child or the stepchild of the employee or the employee's partner; is under the age of five; and has not lived continuously with the employee for six months or longer.

20.3.2 An employee who is not taking parental leave with respect to the birth of child to their partner shall be entitled to a period of unpaid partner leave of up to one week at the time of the child's birth. In the case of adoption of a child this period shall be increased to up to three weeks unpaid leave.

20.3.3 The employee may request to extend the period of unpaid partner leave up to a maximum of eight weeks.

20.3.4 The employer is to agree to an employee's request to extend their partner leave under 20.3.3 unless:

(a) having considered the employee's circumstances, the employer is not satisfied that the request is genuinely based on the employee's parental responsibilities; or

(b) there are grounds to refuse the request relating to its adverse effect on the employer's business and those grounds would satisfy a reasonable person. These grounds include, but are not limited to:

(i) cost;

(ii) lack of adequate replacement staff;

(iii) loss of efficiency; and

(iv) impact on the production or delivery of products or services by the employer.

20.3.5 The employer is to give the employee written notice of the employer's decision on a request for extended partner leave. If the employee's request is refused, the notice is to set out the reasons for the refusal.

20.3.6 An employee who believes their request for extended partner leave under 20.3.3 has been unreasonably refused may seek to enforce it as a minimum condition of employment and the onus will be on the employer to demonstrate that the refusal was justified in the circumstances.

20.3.7 The taking of partner leave by an employee shall have no effect on their or their partner's entitlement, where applicable, to paid parental leave under this clause.

## 20.4 Other Leave Entitlements

### 20.4.1 Annual and long service leave

(a) An employee proceeding on unpaid parental leave may elect to substitute any part of that leave with accrued annual leave or long service leave to which the employee is entitled for the whole or part of the period of unpaid parental leave.

(b) (i) An employee may elect to substitute any part of their entitlement to one week's unpaid partner leave as provided for in 20.3.2 with accrued annual or long service leave to which the employee is entitled for the whole or part of that period of unpaid partner leave.

(ii) Where an employer agrees to an employee's request to extend their period of unpaid partner leave under 20.3.3, the employer must allow an employee to elect to substitute any part of that period of unpaid partner leave with accrued annual or long service leave to which the employee is entitled or the whole or part of that period of unpaid partner leave.

#### 20.4.2 Time off in lieu of overtime

An employee proceeding on unpaid parental leave or unpaid partner leave may elect to substitute any part of that leave with accrued time off in lieu of overtime to which the employee is entitled for the whole or part of the period of unpaid parental leave or unpaid partner leave.

#### 20.4.3 Leave without pay

(a) Subject to all other leave entitlements being exhausted an employee shall be entitled to apply for leave without pay following parental leave to extend their leave by up to two years. The employer is to agree to a request to extend their leave unless:

(i) having considered the employee's circumstances, the employer is not satisfied that the request is genuinely based on the employee's parental responsibilities; or

(ii) there are grounds to refuse the request relating to its adverse effect on the employer's business and those grounds would satisfy a reasonable person. These grounds include, but are not limited to:

\_ cost;

\_ lack of adequate replacement staff;

\_ loss of efficiency;

\_ impact on the production or delivery of products or services by the employer.

(b) The employer is to give the employee written notice of the employer's decision on a request for leave without pay under 20.4.3 (a). If the request is refused, the notice is to set out the reasons for the refusal.

(c) An employee who believes their request for leave without pay under 20.4.3 (a) has been unreasonably refused may seek to enforce it as a minimum condition of employment and the onus will be on the employer to demonstrate that the refusal was justified in the circumstances.

(d) Any period of leave without pay must be applied for and approved in advance and will be granted on a year-by-year basis. Where both partners work for the employer the total combined period of leave without pay following parental leave shall not exceed two years.

#### 20.4.4 Sick or personal leave

(a) An employee on paid or unpaid parental leave is not entitled to paid sick or personal leave other than as specified in 20.4.4 (b).

(b) Should the birth or adoption result in other than the arrival of a living child, the employee shall be entitled to such period of paid sick or personal leave to which the employee is entitled or unpaid leave for a period certified as necessary by a registered medical practitioner.

Paid sick or personal leave cannot be taken concurrently with paid parental leave.

(c) Where a pregnant employee not on parental leave suffers illness related to the pregnancy or is required to undergo a pregnancy related medical procedure the employee may take any paid sick or personal leave to which the employee is entitled or unpaid leave for a period as certified necessary by a registered medical practitioner.

(d) An employee on unpaid partner leave is not entitled to paid sick or personal leave.

#### 20.4.5 Public holidays

Any public holidays that fall during paid or unpaid parental leave, or unpaid partner leave shall be counted as part of the parental or partner leave and do not extend the period of parental or partner leave.

#### 20.4.6 School vacation leave

(a) This provision applies to employees who are entitled to receive normal pay during a period of the school vacation.

(b) Where a period of paid parental leave overlaps with a period of school vacation leave to which an employee is entitled, the period of vacation leave shall not be counted as part of the paid parental leave. It shall therefore extend the period of paid parental leave to the extent of the overlap.

### 20.5 Notice and Variation

20.5.1 (a) The employee shall give not less than four weeks notice in writing to the employer of the date the employee proposes to commence paid or unpaid parental leave, or unpaid partner leave stating the period of leave to be taken.

(b) Where an award or agreement requires an employee to provide a greater period of notice than that stated in 20.5.1 (a), the notice provisions of the award or agreement shall prevail.

20.5.2 An employee seeking to adopt a child shall not be in breach of subclause 20.5.1 by failing to give the required period of notice if such failure is due to the requirement of the adoption agency to accept earlier or later placement of a child, or other compelling circumstances.

20.5.3 An employee proceeding on parental leave may elect to take a shorter period of parental leave to that provided by 20.2.4 – Unpaid Parental Leave and may at any time during that period elect to reduce or extend the period stated in the original application, provided four weeks written notice is provided.

### 20.6 Modification of Duties or Transfer to a Safe Job

#### 20.6.1 Part time employment during pregnancy

(a) A pregnant employee may work part time in one or more periods whilst she is pregnant where she provides her employer with a medical certificate from a medical practitioner advising that part time employment is, because of her pregnancy, necessary or preferable.

(b) The terms of part time employment undertaken in accordance with 20.6.1 (a) shall be in writing.

(c) Such employment shall be in accordance with the part time employment and parental leave provisions of any relevant award, agreement or other industrial instrument.

(d) In the absence of award or agreement provisions, and unless otherwise agreed between an employer and employee, an employee shall provide their employer with four weeks written notice of an intention to:

(i) vary part time work arrangements made under 20.6.1 (b); or

(ii) revert to full time employment during the employee's pregnancy.

(e) An employee reverting to full time employment in accordance with 20.6.1 (d) (ii) will be entitled to the same position or a position equivalent in pay, conditions and status and commensurate with the employee's skill and abilities as the substantive position held immediately prior to undertaking part time employment.

20.6.2 If an employee gives her employer a medical certificate from a medical practitioner containing a statement to the effect that, in the medical practitioner's opinion, the employee is fit to work, but that it is inadvisable for her to continue in her present position for a stated period because of:

(a) illness, or risks, arising out of her pregnancy; or

(b) hazards connected with that position; then the employer must modify the duties of the position or alternatively transfer the employee to a safe job at the same classification level for the period during which she is unable to continue in her present position.

20.6.3 If an employee's employer does not think it to be reasonably practicable to modify the duties of the position or transfer the employee to a safe job the employee is entitled to paid leave for the period during which she is unable to continue in her present position.

20.6.4 An entitlement to paid leave provided in 20.6.3 is in addition to any other leave entitlement the employee has and the employee is to be paid the amount she would reasonably have expected to be paid if she had worked during that period. This entitlement also applies to eligible casual employees.

20.6.5 An entitlement to paid leave provided in 20.6.3 ends at the earliest of whichever of the following times is applicable:

(a) the end of the period stated in the medical certificate;

(b) if the employee's pregnancy results in the birth of a living child – the end of the day before the date of birth; or

(c) if the employee's pregnancy ends otherwise than with the birth of a living child – the end of the day before the end of the pregnancy.

## 20.7 Communication During Parental Leave

20.7.1 Where an employee is on parental leave and a definite decision has been made to introduce significant change at the workplace, the employer shall take reasonable steps to:

(a) make information available in relation to any significant effect the change will have on the status or responsibility level of the position the employee held before commencing parental leave; and

(b) provide an opportunity for the employee to discuss any significant effect the change will have on the status or responsibility level of the position the employee held before commencing parental leave.



20.7.2 An employee shall take reasonable steps to inform their employer about any significant matter that will affect the employee's decision regarding:

- (a) the duration of parental leave to be taken;
- (b) whether the employee intends to return to work; and
- (c) whether the employee intends to return to work on a part-time or modified basis.

20.7.3 An employee shall also notify their employer of changes of address or other contact details that might affect the employer's capacity to comply with subclause 20.7.1.

## 20.8 Replacement Employee

20.8.1 Prior to engaging a replacement employee the employer shall inform the replacement person of:

- (a) the temporary nature of the employment;
- (b) the entitlements relating to the return to work of the employee on parental leave or that employee's capacity to undertake special temporary or casual employment during their period of unpaid parental leave; and
- (c) any consequences for the replacement employee should the employee on parental leave return early from leave or seek an extension to their period of parental leave.

20.8.2 A replacement employee may be employed part time. Such employment shall be in accordance with the part time employment provisions of any relevant award, agreement or industrial instrument.

20.8.3 Nothing in this subclause shall be construed as requiring an employer to engage a replacement employee.

## 20.9 Employment During Parental Leave

20.9.1 (a) The provisions of 20.9 only apply to employment during:

- (i) unpaid parental leave; and
- (ii) leave without pay taken in conjunction with parental leave as provided for in 20.4.2 – Leave without pay.

(b) An employer cannot employ an employee in special temporary or casual employment whilst the employee is on a period of:

- (i) paid parental leave; or
- (ii) annual or long service leave taken concurrently with a period of unpaid parental leave.

### 20.9.2 Special temporary employment

(a) For the purposes of 20.9, "temporary" means employment:

- (i) of an intermittent nature;
- (ii) for a limited, specified period;
- (iii) undertaken during unpaid parental leave or leave without pay taken in conjunction with unpaid parental leave; and

(iv) excluding employment undertaken in accordance with 20.9.3 – Special casual employment.

(b) Notwithstanding any other provision of the parental leave clause, an employee may be employed by their employer on a temporary basis provided that:

(i) both parties agree in writing to the special temporary employment;

(ii) public service officers are only employed on a temporary basis in connection with their substantive office, post or position;

(iii) employees other than public service officers are employed at the level commensurate to the level of the available position under the relevant award or agreement;

(iv) in the case of a fixed term contract employees, the period of temporary employment is within the period of the current fixed term contract;

(v) any such period of service shall not change the employee's employment status in regard to their substantive employment; and

(vi) any period of special temporary employment shall count as qualifying service for all purposes under any relevant award, agreement or industrial instrument.

#### 20.9.3 Special casual employment

(a) For the purposes of this subclause, "casual" means employment:

(i) on an hourly basis for a period not exceeding four weeks in any period of engagement;

(ii) for which a casual loading is paid;

(iii) undertaken during unpaid parental leave or leave without pay taken in conjunction with unpaid parental leave; and

(iv) excluding employment undertaken in accordance with 20.9.2 – Special temporary employment.

(b) Notwithstanding any other provision of the parental leave clause, an employee other than a public service officer, may be employed by their employer on a casual basis provided that:

(i) both parties agree in writing to the special casual employment;

(ii) employees are employed at the level commensurate to the level of the available position under the relevant award or agreement;

(iii) in the case of a fixed term contract employee, the period of casual employment is within the period of the current fixed term contract;

(iv) any such period of service shall not break the employee's continuity of service nor change the employee's employment status in regard to their substantive employment; and

(v) any period of special casual employment shall not count as qualifying service other than with respect to entitlements a casual employee would ordinarily be entitled to for any purpose under any relevant award, agreement or industrial instrument.

20.9.4 For every period of special temporary or casual employment, the following records must be kept:

- (a) the agreements made between the parties for periods of special temporary or casual employment;
- (b) the dates of commencement and conclusion of each period of special temporary and/or casual employment;
- (c) the hours worked by the employee during such periods; and
- (d) the classification level at which the employee is employed during such periods.

#### 20.9.5 Effect of special temporary or casual employment on unpaid parental leave

(a) Subject to 20.9.5 (b), periods of special temporary and/or casual employment shall be deemed to be part of the employee's period of unpaid parental leave or leave without pay taken in conjunction with parental leave as originally agreed to by the parties.

(b) An employee who immediately resumes unpaid parental leave or leave without pay following parental leave following the conclusion of a period of special temporary or casual employment:

(i) is entitled, on written notice, to extend their period of unpaid parental leave or leave without pay taken in conjunction with parental leave by the period of time in which they were engaged in special temporary and/or casual employment; and

(ii) shall give not less than four weeks notice in writing to their employer of the new date they intend to return to work and so conclude their period of parental leave or leave without pay taken in conjunction with parental leave.

(c) An employee who does not immediately resume their period of unpaid parental leave or leave without pay taken in conjunction with parental leave at the conclusion of a period of special temporary or casual employment cannot preserve the unused portion of leave for use at a later date.

#### 20.10 Return to Work on Conclusion of Parental Leave

20.10.1 (a) An employee shall confirm their intention to conclude their parental leave or leave without pay following parental leave and return to work by notice in writing to their employer not less than four weeks prior to the expiration of parental leave or leave without pay.

(b) An employee who intends to return to work on a modified basis in accordance with 20.10.4 – Right to return to work on a modified basis, shall advise their employer of this intention by notice in writing not less than four weeks prior to the expiration of parental leave or leave without pay.

20.10.2 An employee on return to work following the conclusion of parental leave or leave without pay following parental leave will be entitled to the same position or a position equivalent in pay, conditions and status and commensurate with the employee's skill and abilities as the substantive position held immediately prior to proceeding on parental leave.

20.10.3 Where an employee was transferred to a safe job or proceeded on leave as provided for in 20.6.3 – Modification of Duties and Transfer to a Safe Job, the employee is entitled to return to the position occupied immediately prior to the transfer or the taking of the leave.

#### 20.10.4 Right to return to work on a modified basis

(a) An employee may return on a part time or job-share basis to the substantive position occupied prior to the commencement of leave or to a different position at the same

classification level in accordance with the part time employment provisions of the relevant award and agreement.

(b) An employee may return on a modified basis that involves the employee working on different days or at different times, or both; or on fewer days or for fewer hours or both, than the employee worked immediately before starting parental leave.

#### 20.10.5 Right to revert

(a) An employee who has returned on a part time or modified basis in accordance with 20.10.4 may subsequently request the employer to permit the employee to resume working on the same basis as the employee worked immediately before starting parental leave or full time work at the same classification level.

(b) An employer is to agree to a request to revert made under 20.10.5 (a) unless there are grounds to refuse the request relating to the adverse effect that agreeing to the request would have on the conduct of operations or business of the employer and those grounds would satisfy a reasonable person.

(c) An employer is to give the employee written notice of the employer's decision on a request to revert under 20.10.5 (a). If the request is refused, the notice is to set out the reasons for the refusal.

(d) An employee who believes their request to revert under 20.10.5 (a) has been unreasonably refused may seek to enforce it as a minimum condition of employment and the onus will be on the employer to demonstrate that the refusal was justified in the circumstances.

#### 20.11. Effect of Parental Leave and Partner Leave on the Contract of Employment

20.11.1 An employee employed for a fixed term contract shall have the same entitlement to parental leave and partner leave, however the period of leave granted shall not extend beyond the term of that contract.

20.11.2 (a) Absence on unpaid parental leave or unpaid partner leave shall not break the continuity of service of employees.

(b) Where an employee takes a period of unpaid parental leave or unpaid partner leave exceeding 14 calendar days in one continuous period, the entire period of such leave shall not be taken into account in calculating the period of service for any purpose under any relevant award, agreement or industrial instrument. Periods of unpaid leave of 14 days or less shall, however, count for service.

20.11.3 An employee on parental leave or partner leave may terminate employment at any time during the period of leave by written notice in accordance with any relevant award, agreement, or industrial instrument.

20.11.4 An employer shall not terminate the employment of an employee on the grounds of the employee's application for parental leave or partner leave or absence on parental leave or partner leave but otherwise the rights of the employer in respect of termination of employment are not affected.

#### 20.12 Casual Employees

20.12.1 To avoid doubt, an eligible casual employee has no entitlement to paid leave under this clause with the exception of the entitlement to paid leave as provided under subclause 20.6.3 – Modification of Duties and Transfer to a Safe Job.

20.12.2 Nothing in this clause confers a change in the employment status of a casual employee.

20.12.3 Service performed by an eligible casual employee for a public sector employer shall count as service for the purposes of determining 12 months continuous service as per clause 20.2.2 (b)(iii) where:

(a) the eligible casual employee has become a permanent or fixed term contract employee with the same employer; and

(b) the break between the period of eligible casual employment and permanent or fixed term contract employment is no more than three months.

**21. PERSONAL LEAVE**

21.1 The provisions of this clause replace Clause 13 - Sick Leave of the Award.

21.2 The intention of Personal Leave is to give employees and employers greater flexibility by providing leave on full pay for a variety of personal purposes. Personal leave replaces sick and paid carer's leave. Personal leave is not to be used for circumstances normally met by other forms of leave.

21.3 This clause does not apply to casuals with the exception of subclause 21.38 personal leave without pay for the purposes of carer's leave of this clause.

Entitlement

20.4 The employer shall credit each full time employee engaged on an ongoing basis with the following personal leave credits:

	Personal Leave Cumulative	Personal leave Non-cumulative
On the day of initial appointment	52 hours	16 hours
On completion of 6 months continuous service	52 hours	
On the completion of 12 months continuous service	104 hours	16 hours
On the completion of each further period of 12 months continuous service	104 hours	16 hours

21.5 A part time employee shall be entitled to the same personal leave credits as a full time employee, but on a pro rata basis according to the number of hours worked each fortnight. Payment for personal leave shall only be made for those hours that would normally have been worked had the employee not been on personal leave.

21.6 An employee employed for a period less than twelve (12) months shall be credited personal leave on a pro rata basis for the period of the contract.

- 21.7 Where employees access personal leave, it shall be deducted from their non-cumulative entitlement in the first instance.
- 21.8 In the year of accrual the 120 hours personal leave entitlement may be accessed for illness or injury, carer's leave, unanticipated matters or planned matters in accordance with the provisions of this clause. On completion of each year unused personal leave up to a maximum of 104 hours will be cumulative and added to personal leave accumulated from previous years. Unused non-cumulative leave will be lost on completion of each anniversary year.
- 21.9 Whilst employees are able to access personal leave in accordance with subclause 21.15 of this clause, to ensure compliance with the Minimum Conditions of Employment Act 1993 a minimum of 80 hours of personal leave per year must be available or accessed by the employee for the purposes of:
- (a) an employee's entitlement to paid leave for illness or injury; or
  - (b) carer's leave.
- 21.10 The provisions of this subclause shall apply to part time employees on a pro rata basis.
- 21.11 An employee is unable to access personal leave while on any period of parental leave or leave without pay. An employee is unable to access personal leave while on any period of annual or long service leave, except as provided for in subclauses 21.24 and 21.25 (re-crediting leave).
- 21.12 Personal leave will not be debited for public holidays, which the employee would have observed.
- 21.13 If an employee has exhausted all accrued personal leave the employer may allow the employee who has at least twelve (12) months service to anticipate up to 40 hours personal leave from next year's credit. If the employee ceases duty before accruing the leave, the value of the unearned portion must be refunded to the employer, calculated at the wage rate as at the date the leave was taken, but no refund is required in the event of the death of the employee.
- 21.14 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.
- 21.15 Personal leave may be taken on an hourly basis.

#### Application for Personal Leave

- 21.16 Reasonable and legitimate requests for personal leave will be approved subject to available credits. Subject to subclause 21.4 and 21.9 the employer may grant personal leave in the following circumstances:
- a) where the employee is ill or injured;

- b) to provide care or support to a member of the employee's family or household who requires care or support because of an illness or injury to the member; or an unexpected emergency affecting the member;
- c) for unanticipated matters of a compassionate or pressing nature which arise without notice and require immediate attention;
- d) by prior approval of the employer having regard for agency requirements and the needs of the employee, planned matters where arrangements can not be organised outside of normal working hours or be accommodated by the utilisation of flexi time credits by employees working according to approved flexible working hours arrangements or other leave. Planned personal leave will not be approved for regular ongoing situations.

21.17 Employees must complete the necessary application and clearly identify which of the above circumstances apply to their personal leave request.

21.18 The definition of family shall be the definition contained in the Equal Opportunity Act 1984 for "relative". That is, a person who is related to the employee by blood, marriage, affinity or adoption and includes a person who is wholly or mainly dependent on, or is a member of the household of, the employee.

21.19 Where practicable, the employee must give reasonable notice prior to taking leave. Where prior notice cannot be given, notice must be provided as early as possible on the day of absence. Where possible, an estimate of the period of absence from work shall be provided.

#### Evidence

21.20 An application for personal leave exceeding two consecutive working days shall be supported by evidence that would satisfy a reasonable person of the entitlement.

21.21 In general, supporting evidence is not required for single or two consecutive day absences. 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. The leave shall not be granted where the absence is not reasonable or legitimate.

21.22 Personal leave will not be granted where an employee is absent from duty because of personal illness directly caused by the misconduct of the employee.

21.23 Where there is doubt about the cause of an employee's illness, the employer may require the employee to submit to a medical examination by a medical practitioner of the employer's choice, which the employee must attend. Where it is reported that the absence is because of illness caused by the misconduct of the employee, or the employee fails without reasonable cause to attend the medical examination, the fee for the examination must be deducted from the employee's wage and personal leave will not be granted.

21.24 If the employer has reason to believe that an employee is in such a state of health as to render a danger to themselves, fellow employees or the public, the employee may be required to obtain and furnish a report as to the employee's condition from a registered medical practitioner nominated by the employer. The fee for any such examination shall be paid by the employer.

#### Re-crediting Annual Leave

- 21.25 Where an employee is ill or injured during the period of annual leave and produces at the time, or as soon as practicable thereafter, medical evidence to the satisfaction of the employer that as a result of the illness or injury the employee was confined to their place of residence or a hospital for a period of at least seven consecutive calendar days, the employer may grant personal leave for the period during which the employee was so confined and reinstate annual leave equivalent to the period of confinement.

#### Re-crediting Long Service Leave

- 21.26 Where an employee is ill or injured during the period of long service leave and produces at the time, or as soon as practicable thereafter, medical evidence to the satisfaction of the employer that as a result of illness or injury the employee was confined to their place of residence or a hospital for a period of at least 13 consecutive calendar days, the employer may grant personal leave for the period during which the employee was so confined and reinstate long service leave equivalent to the period of confinement.
- 21.27 Unused personal leave will not be cashed out or paid out when an employee ceases their employment.

#### Worker's Compensation

- 21.28 Where an employee suffers a disability within the meaning of section 5 of the Worker's Compensation and Injury Management Act 1981 which necessitates that employee being absent from duty, personal leave with pay shall be granted to the extent of personal leave credits. In accordance with section 80(2) of the Worker's Compensation and Injury Management Act 1981 where the claim for worker's compensation is decided in favour of the employee, personal leave credit is to be reinstated and the period of absence shall be granted as leave without pay.

#### Personal Leave Without Pay Whilst Ill or Injured

- 21.29 Employees who have exhausted all of their personal leave entitlements and are ill or injured may apply for personal leave without pay. Employees are required to complete the necessary application and provide evidence to satisfy a reasonable person. The employer shall not unreasonably withhold this leave.
- 21.30 Personal leave without pay not exceeding a period of three months in a continuous absence does not affect wages increment dates, anniversary date of sick leave credits, long service leave entitlements or annual leave entitlements. Where a period of personal leave without pay exceeds three months in a continuous absence, the period in excess of three months is excised from qualifying service.
- 21.31 Personal leave without pay is not available to employees who have exhausted all of their personal leave entitlements and are seeking leave for circumstances outlined in paragraphs (b), (c) or (d) of subclause 21.16 of this clause. However, other forms of leave including unpaid carer's leave and leave without pay may be available.

#### Portability

- 21.32 The employer shall credit an employee additional personal leave credits up to those held at the date that employee ceased previous employment provided:



- (a) immediately prior to commencing employment in the Public Sector of Western Australia, the employee was employed in the service of:
  - (i) the Commonwealth Government of Australia, or
  - (ii) any other State of Australia, or
  - (iii) in a State body or statutory authority prescribed by Administrative Instruction 611; and
- (b) the employee's employment with the Public Sector of Western Australia commenced no later than one (1) week after ceasing previous employment, and
- (c) the personal leave credited shall be no greater than that which would have applied had the entitlement accumulated whilst employed in a State body or statutory authority prescribed by Administrative Instruction 611.

21.33 The maximum break in employment permitted by paragraph 21.30 (b) of this clause, may be varied by the approval of the employer provided that where employment with the Public Sector of Western Australia commenced more than one (1) week after ceasing the previous employment, the period in excess of one (1) week does not exceed the amount of accrued and pro rata annual leave paid out at the date the employee ceased with the previous employer.

#### Travelling time for Regional Employees

21.34 Subject to the evidentiary requirements set out in subclauses 21.20 to 21.24 of this clause, a regional employee who requires medical attention at a medical facility in Western Australia located 240 km or more from their workplace will be granted paid travel time undertaken during the employee's ordinary working hours up to a maximum of 38 hours per annum.

21.35 The employer may approve additional paid travel time to a medical facility in Western Australia where the employee can demonstrate to the satisfaction of the employer that more travel time is warranted.

21.36 The provisions of subclauses 21.34 and 21.35 Travelling Time for Regional Employees are not available to employees whilst on leave without pay or personal leave without pay for illness or injury.

21.37 The provisions of subclauses 21.34 and 21.35 - Travelling Time for Regional Employees apply as follows.

- (a) An employee employed on a fixed term contract for a period greater than 12 months, shall be credited with the same entitlement as a permanent employee for each full year of service and pro rata for any residual portion of employment.
- (b) An employee employed on a fixed term contract for a period less than 12 months shall be credited with the same entitlement on a pro-rata basis for the period of employment.

- (c) A part time employee shall be entitled to the same entitlement as a full time employee for the period of employment, but on a pro-rata basis according to the number of ordinary hours worked each fortnight.
- (d) The provisions do not apply to casual employees.

Personal Leave Without Pay for the purposes of carer's leave

- 21.38 Subject to 21.34 and 21.35 of this clause an employee, including a casual employee, is entitled to unpaid carer's leave of up to two days for each occasion (a "permissible occasion") on which a member of the employee's family or household requires care or support because of:
- (a) an illness or injury of the family member; or
  - (b) an unexpected emergency affecting the family member; or
  - (c) the birth of a child of the family member.
- 21.39 An employee is entitled to personal leave without pay for the purposes of carer's leave for a particular permissible occasion only if the employee cannot take paid carer's leave during this period.
- 21.40 The definition of family is the same as provided in subclause 21.18 of this clause.
- 21.41 The employer may grant an employee personal leave without pay for the purposes of carer's leave in excess of two days. Where a period of personal leave without pay for the purposes of carer's leave exceeds fourteen days in a continuous absence, the period in excess of fourteen days is excised from qualifying service for all purposes.
- 21.42 Personal leave without pay for the purposes of carer's leave may be taken on an hourly basis.

## **22. BEREAVEMENT LEAVE**

- 22.1 Employees, including casuals, shall on the death of:
- (a) the employee's spouse or de facto partner;
  - (b) a child, step-child or grandchild of the employee (including an adult child, step-child or grandchild);
  - (c) a parent, step-parent or grandparent of the employee;
  - (d) a sibling of the employee;
  - (e) any other person who, at or immediately before the relevant time for assessing the employee's eligibility to take leave, lived with the employee as a member of the employee's household.

be eligible for up to two (2) days paid bereavement leave, provided that at the request of an employee the Employer may exercise a discretion to grant

bereavement leave to an employee in respect of some other person with whom the employee has a special relationship.

- 22.2 The two (2) days need not be consecutive.
- 22.3 Bereavement leave is not to be taken during any other period of leave.
- 22.4 Payment of such leave may be subject to the employee providing evidence, if so requested by the employer, of the death or relationship to the deceased that would satisfy a reasonable person.
- 22.5 An employee requiring more than two (2) days bereavement leave in order to travel overseas in the event of the death overseas of a member of the employee's immediate family may, upon providing adequate proof, in addition to any bereavement leave to which the employee is eligible, have immediate access to annual leave and/or accrued long service leave or leave without pay provided all accrued leave is exhausted.

### **23. CULTURAL/CEREMONIAL LEAVE**

- 23.1 Cultural/ceremonial leave shall be available to all employees.
- 23.2 Such leave shall include leave to meet the employee's customs, traditional law and to participate in cultural and ceremonial activities.
- 23.3 Employees are entitled to time off without loss of pay for cultural /ceremonial purposes, subject to agreement between the employer and employee and sufficient leave credits being available.
- 23.4 The employer will assess each application for ceremonial/cultural leave on its merits and give consideration to the personal circumstances of the employee seeking the leave.
- 23.5 The employer may request reasonable evidence of the legitimate need for the employee to be allowed time off.
- 23.6 Cultural /ceremonial leave may be taken as whole or part days off. Each day or part thereof shall be deducted from:
  - a) the employee's annual leave entitlements (where applicable); or
  - b) the employee's accrued long service leave entitlements, but in full days only; or
  - c) accrued days off or time in lieu.
- 23.7 Time off without pay may be granted by arrangement between the employer and the employee for cultural/ceremonial purposes.

### **24. PURCHASED LEAVE – 44/52 WAGE ARRANGEMENT**

- 24.1 The employer and an employee may agree to enter into an arrangement whereby the employee can purchase up to eight weeks additional leave.

- 24.2 The employer will assess each application for 44/52 wage arrangement on its merits and give consideration to the personal circumstances of the employee seeking the arrangement.
- 24.3 Where an employee is applying for purchased leave of between five (5) and eight (8) weeks the employer will give priority access to those employees with carer responsibilities.
- 24.4 Access to this entitlement will be subject to the employee having satisfied the agency’s accrued leave management policy.
- 24.5 The employee can agree to take a reduced wage spread over the 52 weeks of the year and receive the following amounts of purchased leave:

<b>Number of weeks wages spread over 52 weeks</b>	<b>Number of weeks purchased leave</b>
44 weeks	8 weeks
45 weeks	7 weeks
46 weeks	6 weeks
47 weeks	5 weeks
48 weeks	4 weeks
49 weeks	3 weeks
50 weeks	2 weeks
51 weeks	1 week

- 24.6 The purchased leave will not be able to be accrued. The employee is to be entitled to pay in lieu of the purchased leave not taken. In the event that the employee is unable to take such purchased leave, his/her wage will be adjusted on the last pay period in January to take account of the fact that time worked during the year was not included in the wage.
- 24.7 Where an employee who is paid a higher rate of pay proceeds on any period of purchased leave, the employee shall not be entitled to receive payment of the higher rate for any period of purchased leave.
- 24.8 In the event that a part time employee’s ordinary working hours are varied during the year, the wage paid for such leave taken will be adjusted on the last pay in January to take into account any variations to the employee’s ordinary working hours during the previous year.

**25. PURCHASED LEAVE – DEFERRED WAGES ARRANGEMENT**

- 25.1 With the written agreement of the employer, an employee may elect to receive, over a four-year period, 80% of the wage they would otherwise be entitled to receive in accordance with the agreement.
- 25.2 The employer will assess each application for deferred wages on its merits and give consideration to the personal circumstances of the employee seeking the leave.

- 25.3 On completion of the fourth year, an employee will be entitled to 12 months leave and will receive an amount equal to 80% of the wage they were otherwise entitled to in the fourth year of deferment.
- 25.4 Where an employee completes four (4) years of deferred wage service and is not required to attend duty in the following year, the period of non-attendance shall not constitute a break in service and shall count as service on a pro-rata basis for all purposes.
- 25.5 An employee may withdraw from this arrangement prior to completing a four-year period by written notice. An employee will receive a lump sum payment of wages forgone to that time but will not be entitled to equivalent absence from duty.
- 25.6 The employer will ensure that superannuation arrangements and taxation effects are fully explained to the employee by the relevant authority. The employer will put any necessary arrangements into place.

## **26. BLOOD/PLASMA DONORS LEAVE**

- 26.1 Subject to operational requirements, employees shall be entitled to absent themselves from the workplace in order to donate blood or plasma in accordance with the following general conditions:
- a) prior arrangements with the supervisor has been made and at least two (2) days notice has been provided; or
  - b) the employee is called upon by the Red Cross Blood Centre.
- 26.2 The notification period shall be waived or reduced where the line manager is satisfied that operations would not be unduly affected by an employee's absence.
- 26.3 Employees shall be required to provide proof of attendance at the Red Cross Blood Centre upon return to work.
- 26.4 Employees shall be entitled to two (2) hours of paid leave per donation for the purpose of donating blood or plasma to the Red Cross Blood Centre.

## **27. EMERGENCY SERVICES LEAVE**

- 27.1 Subject to operational requirements, paid leave of absence shall be granted by the employer to an employee who is an active volunteer member of State Emergency Service, St John Ambulance Brigade, Volunteer Fire and Rescue Service, Bush Fire Brigades, Volunteer Marine Rescue Services Groups or FESA Units, in order to allow for attendances at emergencies as declared by the recognised authority.
- 27.2 The employer shall be advised as soon as possible by an employee, the emergency service, or other person as to the absence and, where possible, the expected duration of leave.
- 27.3 The employee must complete a leave of absence form immediately upon return to work.

27.4 The application form must be accompanied by a certificate from the emergency organisation certifying that the employee was required for the specified period.

27.5 An employee, who during the course of an emergency, volunteers their services to an emergency organisation, shall comply with subclauses 27.2, 27.3 and 27.4.

## **28. DEFENCE FORCE RESERVES LEAVE**

28.1 The employer must grant leave of absence for the purpose of defence service to an employee who is a volunteer member of the Defence Force Reserves or the Cadet Force. Defence service means service, including training, in a part of the Reserves or Cadet Force.

28.2 Leave of absence may be paid or unpaid in accordance with the provisions of this clause.

28.3 Application for leave of absence for defence service shall, in all cases, be accompanied by evidence of the necessity for attendance. At the expiration of the leave of absence granted, the employee shall provide a certificate of attendance to the employer.

### **28.4 Paid leave**

- a) An employee who is a volunteer member of the Defence Force Reserves or the Cadet Force is entitled to paid leave of absence for defence service, subject to the conditions set out hereunder.
- b) Part-time employees shall receive the same paid leave entitlement as full time employees but payment shall only be made for those hours that would normally have been worked but for the leave.
- c) On written application, an employee shall be paid wages in advance when proceeding on such leave.
- d) Casual employees are not entitled to paid leave for the purpose of defence service.
- e) An employee is entitled to paid leave for a period not exceeding 112 hours on full pay in any period of twelve months commencing on 1 July in each year.
- f) An employee is entitled to a further period of leave not exceeding 16 calendar days in any period of twelve months commencing on July 1. Pay for this leave shall be at the rate of the difference between the normal remuneration of the employee and the defence force payments to which the employee is entitled if such payments do not exceed normal salary. In calculating the pay differential, pay for Saturdays, Sundays, Public Holidays and rostered days off is to be excluded and no account is to be taken of the value of any board or lodging provided for the employee.

### **28.5 Unpaid leave**

- a) Any leave for the purpose of defence service that exceeds the paid entitlement prescribed in subclause 28.4 of this clause shall be unpaid.

- b) Casual employees are entitled to unpaid leave for the purpose of defence service.

#### 28.6 Use of other leave

- a) An employee may elect to use annual or long service leave credits for some or all of their absence on defence service, in which case they will be treated in all respects as if on normal paid leave.
- b) An employer cannot compel an employee to use annual leave or long service leave for the purpose of defence service.

### **29. - WITNESS AND JURY SERVICE**

#### Witness

- 29.1 An officer subpoenaed or called as a witness to give evidence in any proceeding shall as soon as practicable notify the manager/supervisor who shall notify the employer.
- 29.2 Where an officer is subpoenaed or called as a witness to give evidence in an official capacity that officer shall be granted by the employer leave of absence with pay, but only for such period as is required to enable the officer to carry out duties related to being a witness. If the officer is on any form of paid leave, the leave involved in being a witness will be reinstated, subject to the satisfaction of the employer. The officer is not entitled to retain any witness fee but shall pay all fees received into the Consolidated Fund. The receipt for such payment with a voucher showing the amount of fees received shall be forwarded to the employer.
- 29.3 An officer subpoenaed or called as a witness to give evidence in an official capacity shall, in the event of non-payment of the proper witness fees or travelling expenses as soon as practicable after the default, notify the employer.
- 29.4 An officer subpoenaed or called, as a witness on behalf of the Crown, not in an official capacity shall be granted leave with full pay entitlements. If the officer is on any form of paid leave, this leave shall not be reinstated as such witness service is deemed to be part of the officer's civic duty. The officer is not entitled to retain any witness fees but shall pay all fees received into the Consolidated Fund.
- 29.5 An officer subpoenaed or called as a witness under any other circumstances other than specified in subclauses (2) and (4) of this clause shall be granted leave of absence without pay except when the officer makes an application to clear accrued leave in accordance with Award provisions.

#### Jury

- 29.6 An officer required to serve on a jury shall as soon as practicable after being summoned to serve, notify the supervisor/manager who shall notify the employer.
- 29.7 An officer required to serve on a jury shall be granted by the employer leave of absence on full pay, but only for such period as is required to enable the officer to carry out duties as a juror.

- 29.8 An officer granted leave of absence on full pay as prescribed in subclause (6) of this clause is not entitled to retain any juror's fees but shall pay all fees received into the Consolidated Fund. The receipt for such payment shall be forwarded with a voucher showing the amount of juror's fees received to the employer.

## **PART 4: CHANGE MANAGEMENT**

### **30. CONSULTATION**

- 30.1 The parties recognise the need for effective communication to improve the business/operational performance and working environment in agencies. The parties acknowledge that 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.
- 30.2 The parties agree that:
- a) Where the employer proposes to make changes likely to affect existing practices, working conditions or employment prospects of the employees, the union and employees affected shall be notified by the employer as early as possible.
  - b) For the purposes of such discussion, the employer shall provide to the employees concerned relevant information about the changes, including the nature of the changes on the employees, provided that the employer shall not be required to disclose any confidential information.
  - c) In the context of such discussion the union and employees are able to contribute to the decision making process.

## **PART 5: UNION REPRESENTATIVES**

### **31. UNION FACILITIES FOR UNION REPRESENTATIVES**

- 31.1 The employer recognises the rights of the union to organise and represent its members. Union representatives in the agency have a legitimate role and function in assisting the union in the tasks of recruitment, organising, communication and representing members' interests in the workplace and agency.
- 31.2 The employer recognises that, under the union's rules, union representatives are delegates representing members within a specific worksite.
- 31.3 The employer will recognise union representatives in the agency and will allow them to carry out their role and functions.
- 31.4 The union will advise the employer in writing of the names of the union representatives in the agency.
- 31.5 The employer shall recognise the authorisation of each union representative in the agency and shall provide them with the following:



- a) Paid time off from normal duties to perform their functions as a union representative such as organising, recruiting, individual grievance handling, collective bargaining, involvement in the electorate delegates committee and to attend union business in accordance with clause 32 – Leave to Attend Union Business of the Award.
- b) Access to facilities required for the purpose of carrying out their duties. Facilities may include but not be limited to, the use of filing cabinets, meeting rooms, telephones, fax, email, internet, photocopiers and stationery. Such access to facilities shall not unreasonably affect the operation of the organisation and shall be in accordance with normal agency protocols.
- c) A noticeboard for the display of union materials including broadcast email facilities.
- d) Paid access to periods of leave for the purpose of attending union training courses in accordance with clause 31 – Trade Union Training Leave of the award. Country representatives will be provided with appropriate travel time.
- e) Notification of the commencement of new employees, and as part of their induction, time to discuss the benefits of union membership with them.
- f) Access to awards, agreements, policies and procedures.
- g) Access to information on matters affecting employees in accordance with clause 30 – Consultation in the Agreement.
- h) The names of any Equal Employment Opportunity and Occupational Health, Safety and Welfare representatives.

31.6 The employer recognises that it is paramount that union representatives in the workplace are not threatened or disadvantaged in any way as a result of their role as a union representative.

## **PART 6: DISPUTE SETTLEMENT PROCEDURE**

### **32. DISPUTE SETTLEMENT PROCEDURE**

- 32.1 Any questions, difficulties or disputes arising under this Agreement of employees bound by the Agreement shall be dealt with in accordance with this clause.
- 32.2 The employees/s and the manager with whom the dispute has arisen shall discuss the matter and attempt to find a satisfactory solution, within three (3) working days.
- 32.3 If the dispute cannot be resolved at this level, the matter shall be referred to and be discussed with the relevant manager's superior and an attempt made to find a satisfactory solution, within a further three (3) working days.
- 32.4 If the dispute is still not resolved, it maybe referred by the employee/s or Union representative to the employer or his/her nominee.
- 32.5 Where the dispute cannot be resolved within five (5) working days of the Union representatives' referral of the dispute to the employer or his/her nominee, either party may refer the matter to the Western Australian Industrial Relation Commission.

- 32.6 The period for resolving a dispute may be extended by agreement between the parties.
- 32.7 At all stages of the procedure the employees may be accompanied by a Union representative.

**PART 7: SCHEDULES**

**SCHEDULE 1: SIGNATURES OF PARTIES**

*Signed by Jim McGiveron*

*Dated "7 April 2008"*

Signed.....

Date.....

..

Jim McGiveron  
Secretary  
Transport Workers Union of Australia, Industrial Union of Workers, Western Australian Branch

*Signed by Dr K O'Callaghan*

*Dated "7/4/08"*

Signed.....

Date.....

..

Dr. Karl O'Callaghan  
Commissioner of Police

**SCHEDULE 2 : WAGES**

Proposed wage rates, inclusive of service increments, are:

<b>Full-time Escort Warden 40 Hour week</b>	<b>Weekly Wage 26 Feb 2007</b>	<b>Weekly Wage 2008</b>	<b>Weekly Wage 2009</b>
	\$954.40	An amount equivalent to the Level 2.5 (maximum Level 2 rate) Public Service General Agreement rate, as amended from time to time	An amount equivalent to the Level 2.5 (maximum Level 2 rate) Public Service General Agreement rate, as amended from time to time

This equates to the following hourly rates of pay:

<b>Full-time Escort Warden</b>	<b>Hourly Rate</b>	<b>Hourly Rate 2008</b>	<b>Hourly Rate 2009</b>
	\$23.86	An amount equivalent to the hourly rate based on the Level 2.5 (maximum Level 2 rate) Public Service General Agreement rate, as amended from time to time	An amount equivalent to the hourly rate based on the Level 2.5 (maximum Level 2 rate) Public Service General Agreement rate, as amended from time to time

**SCHEDULE 3**

**CAMPING ALLOWANCES**

	<b>RATE PER DAY</b>	<b>ITEM</b>
<b><u>South of 26° South Latitude</u></b>		
Permanent Camp - Cook provided by the Department	\$48.15	A1
Permanent Camp - No cook provided	\$59.55	A2
Other Camping - Cook provided by the Department	\$70.95	A3
Other Camping - No cook provided	\$82.35	A4
Camping beside or inside vehicle	\$95.46	A5
<b><u>North of 26° South Latitude</u></b>		
Permanent Camp - Cook provided by the Department	\$57.30	A1
Permanent Camp - No cook provided	\$68.70	A2
Other Camping - Cook provided by the Department	\$80.10	A3

Other Camping - No cook provided	\$91.50	A4
Camping beside or inside vehicle	\$133.08	A5

*NB: Allowances to be adjusted in line with Circulars to Departments and Authorities as issued by the Department of Consumer and Employment Protection.*

#### **SCHEDULE 4**

#### **TRAVELLING ALLOWANCES**

ITEM	PARTICULARS	DAILY RATE
		\$

#### **Allowance to Meet Incidental Expenses -**

1	WA - South of 26 <sup>0</sup> South Latitude	11.75
2	WA - North of 26 <sup>0</sup> South Latitude	15.40
3	Interstate	15.40

#### **Accommodation Involving an Overnight Stay at a Hotel, Motel or Roadhouse**

4	WA - Metropolitan	210.05
5	Locality South of 26 <sup>0</sup> South Latitude	168.60
6	Locality North of 26 <sup>0</sup> South Latitude	

Broome	284.40
Carnarvon	222.30
Dampier	209.15
Derby	188.40
Exmouth	215.90
Fitzroy Crossing	314.90
Gascoyne Junction	128.90
Halls Creek	265.40
Karratha	364.65
Kununurra	266.80
Marble Bar	179.40
Newman	254.65
Nullagine	189.75
Onslow	207.20
Pannawonica	177.15
Paraburdoo	238.40
Port Hedland	239.70
Roebourne	132.90
Sandfire	160.40
Shark Bay	175.90
Tom Price	219.40
Turkey Creek	175.90
Wickham	323.90

Wyndham	158.90
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7	Interstate - Capital Cities	
	Sydney	255.65
	Melbourne	245.65
	Others	213.15

ITEM	PARTICULARS	DAILY RATE
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8	Interstate - Other than Capital Cities	168.60
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**Accommodation Involving an Overnight Stay at Other Than a Hotel, Motel or Roadhouse**

9	WA - South of 26 <sup>o</sup> South Latitude	79.40
10	WA - North of 26 <sup>o</sup> South Latitude	97.70
11	Interstate	97.70

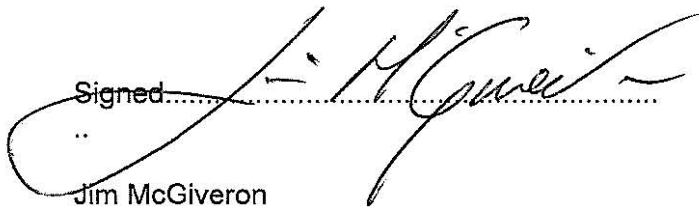
**Travel not Involving an Overnight Stay or Travel Involving an Overnight Stay Where Accommodation Only is Provided**

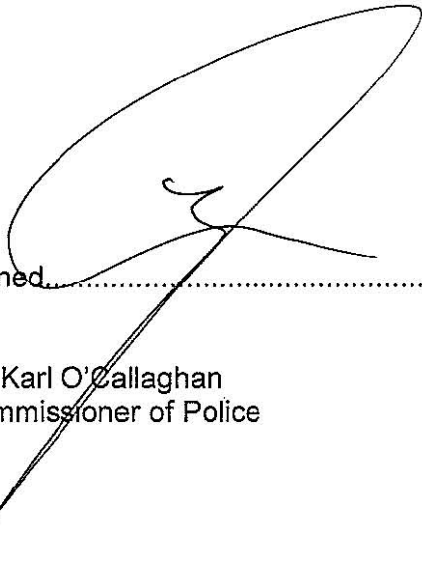
12	WA - South of 26 <sup>o</sup> South Latitude:	
	Breakfast	14.15
	Lunch	14.15
	Dinner	39.40
13	WA - North of 26 <sup>o</sup> South Latitude:	
	Breakfast	15.75
	Lunch	27.70
	Dinner	38.90
14	Interstate:	
	Breakfast	15.75
	Lunch	27.70
	Dinner	38.90

*NB: Allowances to be adjusted in line with Circulars to Departments and Authorities as issued by the Department of Consumer and Employment Protection.*

**PART 7: SCHEDULES**

**SCHEDULE 1: SIGNATURES OF PARTIES**

Signed  Date *7 April 2008*  
.. ..  
Jim McGiveron  
Secretary  
Transport Workers Union of Australia, Industrial Union of Workers, Western Australian  
Branch

  
Signed .. Date *7/4/08*  
.. ..  
Dr. Karl O'Callaghan  
Commissioner of Police