

44. SUPERANNUATION ON UNPAID PARENTAL LEAVE

44.1 In this clause, “unpaid parental leave” means:

- (a) unpaid maternity leave, which includes unpaid maternity leave, unpaid special maternity leave and extended unpaid maternity leave under clause 39;
- (b) unpaid adoption leave under clause 40; and
- (c) unpaid other parent leave under clause 41 of this Agreement.

44.2 An Employee or eligible casual employee who is entitled to unpaid parental leave is entitled to have superannuation contributions made in respect of the period of unpaid parental leave taken to a maximum of 12 weeks.

The superannuation contribution entitlement applies to all unpaid parental leave types: unpaid maternity leave, unpaid special maternity leave, extended unpaid maternity leave, unpaid adoption leave and unpaid other parent leave. However employees can only claim a maximum of 12 weeks superannuation contribution entitlement across the total unpaid maternity leave period. For example, if an employee takes unpaid maternity leave followed by extended unpaid maternity leave, the maximum superannuation contribution for the total unpaid maternity leave period would be 12 weeks.

The Executive Director Public Sector Labour Relations has approved a transitional arrangement for any Employee or eligible casual employee on unpaid parental leave on 4 November 2019 (the date of registration of the Agreement) to be entitled to have superannuation contributions made in respect of the period of unpaid parental leave they have taken to a maximum of 12 weeks. For example:

- An Employee on unpaid maternity leave on the date of registration who has been on that leave for the preceding 8 weeks is entitled to superannuation contributions on 8 weeks of unpaid maternity leave plus any additional weeks of unpaid maternity leave taken following registration up to the maximum of 12 weeks.
- An Employee on unpaid extended maternity leave on the date of registration who has been on unpaid leave for the preceding 30 weeks is entitled to superannuation contributions on 12 weeks of unpaid extended maternity leave.

An Employee whose unpaid parental leave concluded before the date of registration is not entitled to superannuation contributions in respect of that leave.

In situations where partners both employed in the Western Australian Public Sector share an entitlement to unpaid parental leave, each individual parent is entitled to superannuation contributions on up to 12 weeks leave. In practice, this means a maximum of 24 weeks superannuation contribution could be paid on the total unpaid parental leave period shared between the partners.

44.3 Superannuation contributions made under this clause will be calculated:

- (a) in respect of the period of unpaid maternity leave, unpaid adoption leave or unpaid other parent leave taken or 12 weeks; whichever is lesser;
- (b) based on the amount that would have been paid to the Employee had they taken paid maternity leave, paid adoption leave or paid other parent leave for that period and in accordance with the following:
 - (i) for full time Employees – the ordinary working hours at the time of commencement of parental leave;
 - (ii) for part time Employees – an average of the hours worked by the Employee over the preceding 12 months; or their ordinary working hours at the time of commencement of parental leave, whichever is greater; or
 - (iii) for eligible casual employees – an average of the hours worked by the eligible casual employee over the preceding 12 months;

exclusive of shift and weekend penalties;

The rate of pay (i.e. hours) to determine the relevant superannuation contribution aligns with the calculation which normally applies when an employee takes paid parental leave but does not include any recognition of higher duties allowance.

44.4 Superannuation contributions will be paid:

- (a) to the Employee's superannuation fund in respect of which superannuation contributions for that Employee are made; and
- (b) at the time that the period of unpaid parental leave in respect of which the contributions are payable concludes.

Following consultation with an affected employee, the superannuation contribution can be paid by agencies on a fortnightly basis rather than a lump sum if required.

44.5 Superannuation contributions will be made in accordance with the *State Superannuation Act 2000* and the *State Superannuation Regulations 2001*.