

EMPLOYEES OF THE PUBLIC SERVICE OF NEW SOUTH WALES

SECTION 52 (1) DETERMINATION NO 1 of 2018

Under the power accorded to me as the Industrial Relations Secretary, I determine, pursuant to section 52 of the *Government Sector Employment Act 2013*, the following conditions of employment:

**1. PARENTAL LEAVE FOR EMPLOYEES IN RELATION TO ALTRUISTIC SURROGACY AND PERMANENT OUT OF HOME CARE ARRANGEMENTS**

Employees of the Public Service of New South Wales shall be provided access to:

**Leave for the purposes of altruistic surrogacy**

- For the primary care giver - 12 months' leave of which 14 weeks is paid and the remainder unpaid, as per the provisions applicable for adoption leave under the *Crown Employees (Public Service Conditions of Employment) Reviewed Award 2009*.
- For the secondary care giver - short and extended other parent leave in accordance with clause 75.4 of the *Crown Employees (Public Service Conditions of Employment) Reviewed Award 2009*.

Altruistic surrogacy leave is available to employees who are able to demonstrate they are the parent of the child as follows:

- Intended parent(s) to notify their employer at least four months before the expected birth and provide a copy of the pre-conception surrogacy agreement, as provided for under the *Surrogacy Act 2010* (redacted as necessary to protect the privacy of non-employees);
- At the time they assume the role of primary or secondary carer the employee is to provide a statutory declaration advising that they are now the primary or secondary carer of the child and intend to make application for a parentage order as required under the *Surrogacy Act 2010*;
- A copy of the parentage order application (redacted as necessary) is provided as soon as practicable after it is lodged; and
- A copy of the parentage order (redacted as necessary) is provided as soon as practicable after it is granted.

Leave as defined above will commence from the date the employee assumes the role of primary or secondary care giver of the child.

### Leave for employees providing permanent out-of-home care

- An entitlement to take 12 months' unpaid leave for permanent caring arrangements.

Eligibility for a period of leave to carers is to be limited to the provision of a guardianship or a permanent placement order for a child or young person.

Leave as defined above is available once a child is in the permanent care of the employee.

### Other Rights

- Employees granted leave for the purposes of altruistic surrogacy or out-of-home care also have a right to request extended parental leave, and return to work on a part time basis in accordance with clause 75.9 of the *Crown Employees (Public Service Conditions of Employment) Reviewed Award 2009*.

## 2. BASIS OF ENTITLEMENT

This Determination shall apply to all public service employees as defined in the *Government Sector Employment Act 2013* employed in the Departments, Public Service executive agencies related to Departments, and separate Public Service agencies as listed in Schedule 1 to the *Government Sector Employment Act 2013*.

## 3. REVIEW ARRANGEMENTS

A review of the leave entitlements for permanent out of home care will be undertaken 12 months after the date of effect of the Determination granting the entitlement.

## 4. DATE OF EFFECT

The above arrangements shall take effect on and from the date this Determination is signed and shall remain in force until varied or rescinded.

Michael Pratt  
Secretary  
NSW Treasury

Dated: \_\_\_\_\_



6.2.18.