

## DIRECTIVE 14/24

Supersedes: 13/14

# Minister for Industrial Relations Directive:

## Court Attendance and Jury Service

**1. Purpose:**

To prescribe the entitlements for employees required to attend court as a witness or to undertake jury service.

**2. Effective date:** 30 September 2024**3. Legislative authority:**

- 3.1 Section 223 of the *Public Sector Act 2022* (PS Act).
- 3.2 Section 228 of the PS Act outlines the relationship between a directive and an Act or subordinate legislation, including how to deal with inconsistencies.
- 3.3 Section 229 of the PS Act outlines the relationship between a directive and industrial instrument, including how to deal with inconsistencies.

**4. Application:**

- 4.1 This directive applies to industrial instrument employees (i.e. employees who are covered by an award, certified agreement or arbitration determination) who are:
  - (a) public service employees; or
  - (b) public sector employees employed under the establishing legislation<sup>1</sup> of the following entities:
    - (i) Queensland Ambulance Service;
    - (ii) Queensland Building Construction Commission;
    - (iii) Queensland Building Construction Commission Employing Office;
    - (iv) Queensland Fire and Emergency Service (other than auxiliary fire officers);
    - (v) Residential Tenancies Authority;
    - (vi) Residential Tenancies Employing Office;
    - (vii) Trade and Investment Queensland; or
    - (viii) Office of the Queensland Integrity Commissioner
- 4.2 This directive does not apply to trainees whose conditions are set out in *Order – Apprentices' and Trainees' Wages and Conditions (Queensland Government Departments and Certain Government Entities)*.

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<sup>1</sup> For example, the establishing legislation of the Queensland Building and Construction Employing Office is the *Queensland Building and Construction Commission Act 1991*.

## **5. Entitlement - general**

- 5.1 An employee subpoenaed or called to attend court as a witness, or required to undertake jury service, is entitled to expenses and leave specified in this directive.
- 5.2 A casual employee is only entitled to receive payment for the hours the employee would have worked if not for the requirements to attend court or undertake jury service.
- 5.3 A casual employee is not entitled to be compensated for travel, accommodation or meals while attending court as a witness or undertaking jury service.
- 5.4 Managers are encouraged to discuss concerns about fatigue when shift workers are subpoenaed or called to attend as a witness or required to undertake jury service during non-rostered hours.
- 5.5 An employee is to promptly notify their employer of the date they are required to attend court as a witness or for jury service.
- 5.6 Where reasonable, an employee who is not required to attend court as a witness or undertake jury service for a complete day, is to attend work at the earliest opportunity for the balance of their working day.

## **6. Court attendance – official capacity**

- 6.1 An employee subpoenaed or called as a witness in their official capacity:
  - (a) is entitled to full salary;
  - (b) is entitled to continue to be paid the higher duties amount for court attendance falling within their relieving period and the higher duties period is not interrupted by the requirements to attend court in their official capacity;
  - (c) is to be paid all necessary expenses incurred in attending court including travelling allowance prescribed in the directive relating to domestic travelling and relieving expenses (if the directive applies to the employee) or the relevant industrial instrument; and
  - (d) must pay any fees or allowances received for their attendance as a witness to the chief executive for payment into entity funds.

## **7. Court attendance – on behalf of a State or the Commonwealth Government**

- 7.1 An employee subpoenaed/called as a witness by a State or the Commonwealth other than in their official capacity is:
  - (a) to be granted court attendance leave on full salary for attendance and any necessary travel time;
  - (b) entitled to continue to be paid the higher duties amount for court attendance falling within their relieving period which shall be paid irrespective of whether the minimum relieving period has been completed prior to the leave commencing;
  - (c) entitled to retain any allowances received or expenses reimbursed for travel, accommodation or meals; and
  - (d) to pay any fees received for their attendance as a witness to the chief executive for payment into entity funds.

## **8. Court attendance – private capacity, civil action etc.**

- 8.1 An employee subpoenaed or called as a witness other than in the circumstances set out above:
- (a) may choose to be granted either special leave without pay, recreation leave, time off in lieu of overtime or accrued hours; and
  - (b) is entitled to retain any fees or allowance received, or expenses reimbursed for travel, accommodation or meals.
- 8.2 Nothing in clause 8.1(a) limits the discretion of a chief executive to approve special leave on full pay under the directive relating to special leave (if the directive applies to the employee) in these circumstances.

## **9. Jury Service**

- 9.1 An employee required to undertake jury service:
- (a) is to be granted leave on full salary for that purpose;
  - (b) is to continue to be paid the higher duties amount for court attendance falling within their relieving period which shall be paid irrespective of whether the minimum relieving period has been completed prior to the leave commencing;
  - (c) is entitled to retain any allowances received or expenses reimbursed for travel, accommodation or meals during jury service; and
  - (d) must pay any fees received for jury service during the approved leave to the chief executive for payment into entity funds except where:
    - (i) the employee's salary is less than the fees payable for that day, then the employee is entitled to retain the difference between the salary and the fee; and
    - (ii) service is not covered by leave under this directive (e.g. non-work time such as a public holiday or weekend, or when the employee is on any other form of paid or unpaid leave).

## **10. Definitions**

Except where otherwise defined, terms in this directive are consistent with their meanings in the *Industrial Relations Act 2016* and/or the *Public Sector Act 2022*.

**Full salary** means:

- the ordinary hours worked by the employee including amounts payable for those hours (e.g. projected allowances, loadings and penalties) excluding reimbursement allowances; and
- any other amounts payable under the employee's employment contract.