

## DIRECTIVE 05/17

Supersedes: 01/16

# Minister for Employment and Industrial Relations Directive: Special Leave

### 1. Purpose:

To prescribe entitlements and conditions for special leave.

### 2. Effective date: 1 March 2017

### 3. Legislative authority:

Section 54(1)(a) of the *Public Service Act 2008* (Qld).

The provisions in the Schedules may be varied in accordance with certified agreements made under the *Industrial Relations Act 2016* or decisions of an industrial tribunal of competent jurisdiction. Sections 51 and 52 of the *Public Service Act 2008* and section 941 of the *Industrial Relations Act 2016* apply if there is a conflict with an act, regulation or industrial instrument.

### 4. Application:

This Directive applies to public service employees, as specified below, excluding employees engaged on a casual basis under sections 147(2)(b) or 148(2)(b) of the *Public Service Act 2008* (except in relation to Bereavement Leave).

### 5. Previous references:

- Directives: 01/16, 09/13, 02/12, 18/09, 8/06, 1/06, 10/01, 14/99 and 8/97: Special Leave
- Directives: 12/10, 5/06, 13/05, 3/02, 9/01 and 13/99: Bereavement Leave
- Administrative Instruction No 2 VII 1

### 6. Related information:

- Directive(s) relating to recreation and long service leave
- Directive(s) relating to overtime and excess travel
- Directive relating to critical incident entitlements and conditions

## DIRECTIVE

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### 7. Entitlement

#### 7.1 An officer or an employee, as defined in this Directive:

- (a) **may** be granted special leave either on full-pay or without pay as provided for in clause 8;
- (b) **must** be granted special leave of absence either on full-pay or without pay as provided and where indicated in Schedule one.

#### 7.2 Unless otherwise indicated, leave entitlements apply to part-time employees on a pro-rata basis.

- 7.3 Leave prescribed in this Directive may be converted to an hourly basis for the purpose of entitlement, granting and recording of leave. Leave is based on the number of hours that the employee would have worked. Schedule Three provides conversion formulas.
- 7.4 If an employee is rostered to work a specific number of hours on a day and the employee is absent from duty on that day, or part of it, the period of leave will be the number of hours that the employee was rostered to work on that day but did not work. This applies even though the period of leave may be different to the employee's daily hours (as defined).
- 7.5 Where a public holiday or substituted day under the *Holidays Act 1983* occurs, during an absence on special leave without pay, officers and employees are not entitled to be paid for the public holiday.

## **8. Discretionary leave**

- 8.1 A chief executive **may** approve paid leave for employees for any purpose, with duration appropriate to the purpose of the leave.
- (a) Leave approved under clause 8.1 must not exceed more than five (5) days per year per reason unless the chief executive considers that circumstances warrant the granting of additional paid leave. Any additional leave must be reasonable and proportionate to the circumstances.
- (b) Examples of reasons could include, but are not limited to, those specified in Schedule Two.
- 8.2 A chief executive may approve unpaid leave for employees for any purpose and for any duration.
- 8.3 A chief executive may approve purchased leave, a form of unpaid leave, for any period determined by the chief executive in accordance with Queensland Government policy and/or industrial instruments.
- 8.4 A chief executive may approve a combination of paid and unpaid leave under this Directive.
- 8.5 In determining an application for leave under clause 8.1 or clause 8.2, a chief executive must consider:
- (a) the reason the leave is requested;
- (b) the duration of the requested leave;
- (c) if applicable, for temporary or casual employees, the duration of the person's employment (including end date);
- (d) the impact on the employee if the requested leave is not approved.

## **9. Taking leave**

- 9.1 Other than as provided for in Schedule One, leave is always to be subject to the demands of a particular situation and is to be taken at departmental convenience.

## **10. Recall from or cancellation of leave**

- 10.1 Section 10 does not apply to leave granted in accordance with Schedule One.
- 10.2 A chief executive may, if departmental circumstances require it:
- (a) recall an employee from special leave; or
- (b) cancel the approval or granting of any special leave; or
- (c) defer the taking of that leave.

## 11. Definitions

Unless otherwise specified the terms in this Directive have the meaning prescribed in the *Public Service Act 2008*.

**Casual employee** includes both long term casual employees and short term casual employees.

**Daily hours** means:

- the number of ordinary daily working hours of an employee as specified in the relevant industrial instrument; or
- in any other case – the number of hours specified in the relevant industrial instrument as the average number of hours per working day of an employee during a pay period or other period that is reasonable in the circumstances.

**Employee** means a public service officer, temporary employee (engaged under section 148(2)(a) of the *Public Service Act 2008*) and general employee (engaged under section 147(2)(a) of the *Public Service Act 2008*)

**Full-pay** for the purpose of this Directive (excluding sections listed below) means the employee's ordinary rate of pay and is inclusive of any fixed allowances that are part of the regular fortnightly pay, excluding shift penalties and consolidated shift allowance payments.

**Immediate family** includes:

- the employee's spouse; or
- a child, ex-nuptial child, step-child, adopted child, ex-foster child of the employee or employees' spouse; or
- parent, grandparent, grandchild, sister or brother of the employee and of the employee's spouse (such as the employee's mother-in-law, father-in-law, grandparent-in-law, brother-in-law, sister-in-law, son-in-law, daughter-in-law).

The list of family members provided for in this definition is not exhaustive.

Agencies have the discretion to grant bereavement leave to employees on the death of family members that are not expressly provided for in this definition. Cultural and personal reasons may be taken into consideration when an agency makes a decision.

**Industrial instrument** means an award, bargaining award, certified agreement, contract, Directive or determination made under section 180 of the *Industrial Relations Act 2016*.

**Officer** means an employee appointed pursuant to section 119 of the *Public Service Act 2008*.

## SCHEDULE ONE – NON-DISCRETIONARY SPECIAL LEAVE

| Category   | Entitlement  | Conditions of Approval   |
|--|--|--|
| <p><b>1. Election Leave</b></p> <p>An employee who contests a state or local government election shall be granted leave for campaigning purposes.</p>  | <p>Total period not exceeding two (2) months.</p>  | <p>Applies to <b>employees</b>.</p> <p>Leave may be granted either as a charge against accrued recreation leave, long service leave or without salary.</p>   |
| <p><b>2. Local Government Leave</b></p> <p>An employee who has been elected to hold office as mayor, chair or member of a council is to be granted special leave for attendance at council meetings or for undertaking council business.</p> | <p><b><u>Leave on Full Salary</u></b></p> <ul style="list-style-type: none"> <li>• <b>Employee elected as mayor, commissioner or chair –</b><br/>Up to a maximum of five (5) working days per calendar year non-cumulative.</li> <li>• <b>Employee elected to other positions –</b><br/>Up to a maximum of three (3) working days per calendar year non-cumulative.</li> </ul> <p><b><u>Leave Without Salary</u></b><br/>Additional leave as required.</p> | <p>Applies to <b>employees</b>.</p> <p>An employee who has been granted special leave on full salary to attend council meetings or business and who receives payment by the council for attending must submit the payment to the chief executive for reimbursement to departmental funds.</p> <p>Except where the salary of the employee is less than the amount received for the time spent on council business, the employee is entitled to retain the difference between the salary and the amount paid by the council.</p> <p>When determining the amount paid by council, expenses for travel and accommodation are not to be taken into account</p> <p>Where an absence may cause disruption to transport or essential services, the granting of leave is subject to approval having regard to all the circumstances.</p> <p>These conditions do not apply to employees who are elected as full-time councillors, and who are paid a salary for holding such office.</p> |
| <p><b>3. Australian Volunteers International</b></p> <p>An officer who desires to undertake service overseas with the Australian Volunteers International shall be granted leave without salary.</p>   | <p>Up to two (2) years without salary.</p>   | <p>Applies to <b>officers</b> only.</p> <p>The officer shall make arrangements with the QSuper regarding contributions in accordance with the superannuation legislation.</p>  |

| Category  | Entitlement   | Conditions of Approval   |
|---|---|--|
| <p><b>4. Declared Emergency Situation or Disaster Situation</b></p> <p>An employee who has been directed to assist in an emergency situation or a disaster situation in accordance with the <i>Public Safety Preservation Act 1986</i> or the <i>Disaster Management Act 2003</i> shall be granted leave for this purpose.</p> <p>Where an employee is not entitled to paid leave in an emergency situation or a disaster situation, they may still be entitled to unpaid “emergency service leave” in accordance with the requirements of section 118 of the <i>Industrial Relations Act 2016</i>.</p> | <p>Leave on full salary as required.</p> <p>Unpaid leave, for a period that is “reasonable in the circumstances” pursuant to section 118(2) of the <i>Industrial Relations Act 2016</i>.</p>  | <p>Applies to <b>employees</b>.</p> <p>Applies to <b>employees</b>.</p> <p>Must advise the employer in writing and give the employer sufficient evidence to satisfy a reasonable person that the employee took the emergency service leave because the employee was engaged in a voluntary emergency management activity.</p>  |
| <p><b>5. Defence Reserve Forces Leave</b></p> <p>An employee who is a member of the Reserve Forces is to be granted leave for –</p> <p>(a) attendance for reserve service, including but not limited to; training, camps, field exercises, schools, classes or courses and/or deployment situations and may involve more than one (1) absence in a financial year</p> <p>(b) travel from and to the employee’s place of residence to attend continuous training</p> <p><b>OR</b></p> <p>to participate in an advance or rear party in connection with a period of continuous training</p>               | <p><u>Leave on Full Salary</u><br/>(The periods of leave below <b>apply from 1 July 2004</b>)</p> <p>Up to a maximum of –</p> <p>(a) 32 calendar days per financial year (Army Reserve, Naval Reserve and Air Reserve)<br/><b>plus</b> an additional 14 calendar days per financial year during employee’s first year of reserve service, where attending recruit/initial training.</p> <p>(b) Up to a maximum of four (4) days per financial year.</p> <p><u>Leave Without Salary</u><br/>Additional leave for training, deployment and travel as required</p> | <p>Applies to <b>employees</b>.</p> <p>Where possible, at least three (3) months notice prior to commencement of leave should be provided.</p> <p>Evidence of the necessity for the employee’s attendance and proposed length for reserve service in the form of a Training or Deployment Notice must be submitted with the employee’s application and, at the conclusion of the event, the employee must submit a certificate of attendance from the Commanding Officer.</p> <p>Additional leave is subject to certification by the Commanding Officer that the additional days are required.</p> <p><b>Note:</b> The <i>Defence Reserve Service (Protection) Act 2001</i> at section 17 states that “an employer must not hinder or prevent a person in the employer’s employment from volunteering to render defence service or rendering defence service”. When a requirement for an employee Reservist to undertake defence service (which includes training) causes serious difficulties for a department or agency, the department or agency should request the Australian Defence Service to identify alternative dates for the defence service.</p> |

| Category  | Entitlement  | Conditions of Approval  |
|---|--|---|
| <p><u>Employer Support Payments</u></p> <p>Agencies are expected to pursue Employer Support Payment entitlements from the Department of Defence when an employee accesses paid or unpaid Defence Reserve Forces Leave. Details of the financial benefits for employers of reservists provided under the Employer Support Payment Scheme can be obtained from the Defence Reserve Support Council on 1800 803 485 or their website <a href="http://www.defencereservessupport.gov.au">www.defencereservessupport.gov.au</a>.</p> |  |   |
| <p><b>6. Bereavement Leave</b></p>  |  |   |
| <p>(a) An employee is entitled to bereavement leave on full pay on the death of a member of the employee's immediate family or household or if the employee, or the employee's spouse is pregnant and the pregnancy ends other than by the birth of a living child. The leave is to be granted for a death occurring either within Australia or overseas.</p>   | <p>(a) In relation to each deceased person – two (2) days bereavement leave on full pay.</p>           | <p>Applies to <b>employees</b> (including casual employees)</p> <p>The employee is to furnish evidence of the death or funeral arrangements that are satisfactory to the chief executive.</p> |
| <p>(b) A casual employee is entitled to bereavement leave on the death of a member of the employee's immediate family or household. The leave is to be granted for a death occurring either within Australia or overseas.</p>   | <p>(b) In relation to each deceased person – two (2) days unpaid bereavement leave.</p>                |   |
| <p>(c) An employee (including a casual) may be granted additional bereavement leave without pay.</p>  | <p>(c) As determined by the chief executive.</p>   |   |
| <p>(d) If an employee (including a casual) reasonably requires extra time to travel to and from the funeral or other ceremony for the death.</p>  | <p>(d) An amount of unpaid bereavement leave equal to the time reasonably required for the travel.</p> |   |
| <p><i>Note: Refer to clause 11 for the definition of 'immediate family'.</i></p>  |  |   |



## SCHEDULE TWO – DISCRETIONARY SPECIAL LEAVE

| <b>Entitlement</b>   |
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| Up to five (5) days paid leave per year per reason or such additional leave determined to be appropriate by the chief executive may be granted in accordance with clause 8.1(a).   |
| <b>Category</b>  |
| <p><b>1. Emergency or Compassionate Grounds</b></p> <p>An officer may be granted leave that is reasonably required either for an emergency situation or on compassionate grounds which fall outside the scope of “Compassionate Leave”, as defined in clause 7 of Schedule One.</p>  |
| <p><b>2. Sporting Competitions</b></p> <p>An officer may be granted leave for sporting competitions if they are selected as –</p> <ul style="list-style-type: none"> <li>(a) a competitor, team manager or team coach of a state or national team participating at a major national or international sporting competition; or</li> <li>(b) an umpire or referee at such competitions.</li> </ul> <p>The term “competitor” includes reserve competitors. Single competitors selected in events such as the marathon would be included in the category of “state or national team”. An officer who is selected as a competitor or official at the Olympic Games, Commonwealth Games or International Games for the Disabled may be granted leave for the Games.</p>  |
| <p><b>3. Seminars, Conferences other than as an Official Representative</b></p> <p>An officer who is not an official representative and attends a seminar, conference, etc. within Australia or overseas may be granted leave for the event if –</p> <ul style="list-style-type: none"> <li>(a) the seminar, conference, etc. is associated with the officer's area of employment; and</li> <li>(b) the officer is a member of the society or association responsible for the event or contributes substantially to the event by way of delivery of a paper or some other way</li> </ul>   |
| <p><b>4. Returning Officers</b></p> <p>An officer appointed as a returning officer at a state election may be granted leave to discharge electoral duties.</p>   |
| <p><b>5. Floods, Cyclones, Bushfires, etc.</b></p> <p>An employee who is prevented from attending the employee's normal place of employment because of floods, cyclonic disturbances, severe storms or bushfires may be granted leave in the following circumstances –</p> <ul style="list-style-type: none"> <li>(a) it is not practicable for the employee to attend for duty at another Government office;</li> <li>(b) the employee is absent from his or her usual place of residence on approved leave or during a weekend and is unable to return in sufficient time to attend the normal place of employment or it is not practicable to attend duty at another Government office;</li> <li>(c) where the employee is required to return home before the employee’s usual ceasing time to ensure personal safety, the protection of the employee’s family and property or the availability of transport facilities which may be disrupted or discontinued because of weather or environmental conditions;</li> <li>(d) where the employee must, of necessity, remain at home to safeguard the employee’s family or property;</li> <li>(e) where the employee remains at home to have temporary repairs effected, restore belongings, clean up etc;</li> <li>(f) where the employee is travelling on transfer and is unavoidably delayed from arriving at the destination. (An officer may also be allowed reasonable expenses necessarily incurred for accommodation and meals for the officer and family.)</li> </ul> |

## Category

### 6. Emergency Management Courses

An employee who is selected to attend an emergency management course or seminar organised by the Australian Emergency Management Institute, Mt Macedon, Victoria or the State Emergency Service may be granted leave to attend the course or seminar.

### 7. Attendance at Emergencies

An employee who is a member of the State Emergency Service, voluntary member of a local fire fighting unit, member of a Rural Fire Brigade, auxiliary of a Fire Brigade, Honorary Ambulance Officer, St. John Ambulance volunteer or any other emergency service volunteer will be granted leave when called out for emergencies or to fight fires.

### 8. Platelet etc Donors

An employee who is selected as a donor for the apheresis procedure may be granted leave for this purpose.

### 9. Blood Donors

An employee who attends a recognised facility as a donor may be granted leave for the purpose of donating blood.

### 10. Pre-Retirement Seminars

An employee who attends a pre-retirement planning seminar may be granted leave to attend the seminar.

### 11. Other Exceptional Circumstances

This leave type may be used for many and varied circumstances and should be granted to assist employees particularly on compassionate grounds. Applications of this nature must be handled confidentially and with sensitivity. Such circumstances may include but are not limited to the following examples:

- (a) an employee who is dealing with matters arising from or as a result of family or domestic violence;
- (b) an employee who is undergoing an intensive course of medical treatment from specialist practitioners;
- (c) an employee who is dealing with the terminal illness of a partner, child or other close family member (recognising kinship for Aboriginal and Torres Strait Islander peoples);
- (d) an employee who is mourning the death of a partner, child or other close family member;
- (e) an employee whose home and property has been destroyed by a natural disaster such as a flood or cyclone;
- (f) an employee who is a victim of a violent crime.

The above are examples only. There are many other possible scenarios where it would be appropriate to approve "special leave for other exceptional circumstances".

It is not mandatory for the employee to have exhausted other forms of paid leave prior to accessing "special leave for other exceptional circumstances".

In cases of family or domestic violence, leave should be granted to provide the employee with time off to:

- seek safe housing
- attend medical/counselling appointments
- attend court hearings
- access legal advice
- organise alternate care or education arrangements for their children
- rebuild support networks with children, family and others

## SCHEDULE THREE – LEAVE CONVERSION FORMULAS

### 1. Conversion of entitlements

1.1. This schedule sets out the formulas to be utilised when converting leave accruals to an alternative accrual basis.

### 2. Leave entitlement in hours

2.1. If an employee's leave entitlement in a directive is expressed in working days, the leave entitlement may be read as if it were expressed in working hours using the following formula:

$$LE = WD \times DH$$

Where:

LE = Leave Entitlement

WD = Working Days

DH = Daily Hours (as defined by an industrial instrument)

Provided that the leave entitlement applies to part-time employees on a pro rata basis.

### 3. Variation of ordinary working hours

3.1. If a department's system for recording particulars of leave granted to an employee is based on hours and the daily hours (as defined by an industrial instrument) of an employee change, the leave entitlements accumulated by the employee are also to be recorded in hours.

$$LAC = LBC \times \frac{HAC}{HBC}$$

Where:

LAC (leave entitlement after change) = the hours of leave to which the employee is entitled after the change.

LBC (leave entitlement before change) = the employee's leave entitlement expressed in hours before the change.

HAC (daily hours after change) = the employee's daily hours (as defined by an industrial instrument) after the change.

HBC (daily hours before change) = the employee's daily hours (as defined by an industrial instrument) before the change.