

## DIRECTIVE 19/16

Supersedes: 07/16

# Minister for Employment and Industrial Relations Directive: Hours, Overtime and Excess Travel

Pursuant to section 52(3) of the *Public Service Act 2008* and section 687(3) of the *Industrial Relations Act 1999*, **Part A** of this directive prevails over an industrial instrument to the extent of any inconsistency. Industrial instrument means an award, certified agreement or decision of the Queensland Industrial Relations Commission.

### 1. Purpose:

To prescribe:

- the ordinary hours of work for employees not covered by awards or agreements
- compensation for overtime for public service employees, whether covered by awards or not
- compensation for overtime meal allowance for certain employees
- the compensation for excess travel time for certain employees.

### 2. Effective date: 1 July 2016.

### 3. Legislative authority:

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

### 4. Application:

This Directive applies to particular public service employees as specified in the provisions of this Directive.

This Directive applies to employees engaged at the Senior Officer classification level only in relation to Part B – Overtime Meal Allowance.

### 5. Previous references:

- Directives 06/99, 19/01, 5/05, 7/13 and 07/16: Hours and overtime
- Directives 02/00, 07/00 and 16/05 and 7/13: Excess Travel Time
- Directives 10/97, 20/99, 20/01, 1/06 and 7/13: Overtime Meal Allowances
- Sections 20, 21, 63 and 65 of the *Public Service Management and Employment Regulation 1988* as in force on 24 February 1995
- Determinations No. 3 and 14
- Circular Nos. 6/87, 7/88, 2/90, 6/91, 2/92, 1/94, 2/97
- Administrative Instruction Nos. 1 | 71, 1 | 73, 1 | 74, 1 | 75, 1 | 76 and 1 | 93

## DIRECTIVE

---

### PART A - HOURS AND OVERTIME

#### 6. Hours of work not specified in an industrial instrument

- 6.1 Where an industrial instrument does not specify hours of work, the ordinary hours of work are to be the hours that were previously determined to apply or were worked by that class of employee immediately before the commencement of this Directive.

#### 7. Requirement to undertake overtime

- 7.1 Public service employees required to work overtime are, as far as practicable:

- (a) to be provided with reasonable notice of such requirement
- (b) not to be required to work overtime for more than:
  - (i) a reasonable length of time on any one occasion; or
  - (ii) a reasonable number of times in any period.

- 7.2 Public service employees who worked overtime and

- (a) who obtained approval from their chief executive prior to working overtime; or
- (b) in the absence of prior approval, whose chief executive is subsequently satisfied that it was essential for the proper conduct of public business that the employee work overtime and that the work could not have reasonably been performed within the employee's ordinary work hours,

are to be compensated in accordance with the applicable industrial instrument, read in conjunction with clause 7.3. No claim for overtime is to be approved where an employee elects (elected) to work overtime solely for their own convenience.

- 7.3 Subject to clause 7.5, compensation for overtime:

- (a) for employees (excluding field staff) in receipt of wages that do not exceed AO5(4) of the CRS **and** all casual employees, is in accordance with the provisions of an applicable industrial instrument;
- (b) for employees (excluding casual employees) in receipt of wages in excess of AO5(4) of the CRS but not in excess of AO6(4) of the CRS, is by the provision of equivalent time-off-in lieu (TOIL);
  - (i) Provided that TOIL so accrued will be paid out at ordinary time rates if it remains unused after 12 months from the date overtime was worked, where the employee has both taken reasonable steps to avoid excessive TOIL balances and been refused an application to take such TOIL.
- (c) for employees (excluding casual employees) in receipt of wages in excess of AO6(4) of the CRS, is by the provision of equivalent TOIL.
  - (i) Provided that TOIL so accrued will lapse if not taken within 12 months from the date overtime was worked.

- 7.4 TOIL is to be taken within 12 months of the date overtime was worked and at a time convenient to the department and the employee. Where agreement cannot be reached, the department may direct the employee when the TOIL is to be taken.

- 7.5 A chief executive may in exceptional circumstances, approve an exclusion from the salary limitations for overtime compensation set out in clause 7.3. Applications to a chief executive must be supported by persuasive evidence and must be considered on a case by case basis.

- (a) Where an exclusion is approved under clause 7.5, overtime will be paid at the AO5(4) rate unless otherwise approved by the chief executive.
- 7.6 Where a public service employee is required to work overtime **and** public transport is not available or taking public transport is a safety risk, the employer is responsible for ensuring that alternative transport to that employee's home is available. This generally means the provision of a departmental car, taxi vouchers or reimbursement of taxi fares on production of a receipt.

## **PART B – OVERTIME MEAL ALLOWANCE**

### **8. Overtime meal allowance**

- 8.1 Part B does not apply to:
  - (a) general employees engaged under s147 of the *Public Service Act 2008*, or
  - (b) employees engaged on a casual basis under s148(2)(b) of the *Public Service Act 2008*.
- 8.2 Where a public service employee is required to work more than:
  - (a) 3 hours overtime in addition to hours worked between ordinary starting and ceasing time; or
  - (b) 3 hours overtime worked where such overtime is in excess of a full overtime shift,they are to take a meal break of 45 minutes for each such period of overtime.
- 8.3 A public service employee required to work overtime is to be paid meal allowances in accordance with schedule one, provided that a meal allowance is not payable where a meal of reasonable quality and adequate quantity is supplied in lieu.
- 8.4 Without the approval of the chief executive, a claim for a meal allowance under clause 8.3 will not be paid unless it is submitted within 12 months of:
  - (a) the date of completion of the work; or
  - (b) the incurring of the expense; or
  - (c) the conclusion of the circumstances leading to the claim.
- 8.5 In the interests of health and efficiency, overtime as described in clause 8.2 should not occur unless special circumstances exist.
- 8.6 An employee is not eligible for an overtime meal allowance under this directive if they also claim an overtime meal allowance under the relevant modern award in relation to the same meal (i.e. the first meal or the second meal) in respect of a single instance of overtime on any one day (or continuous period if the overtime commences on one day and continues into the next day). This means that an employee may elect to claim an overtime meal allowance under the directive or the relevant award, but not both.
- 8.7 At the same time of any adjustment to the allowances in the relevant award, the allowances set out in schedule one of this directive shall be automatically increased by the percentage movement in the Eight Capitals Consumer Price Index for the Take-away and fast foods sub-group most recently published by the Australian Bureau of Statistics since the allowance was last adjusted (starting from an initial 'adjustment date' of 1 September 2015).

## **PART C - EXCESS TRAVEL TIME**

### **9. Requirement to undertake official travel outside of hours**

- 9.1 Public service employees covered by the *Queensland Public Service Award – State 2012* who are required to undertake official travel away from their normal headquarters outside the ordinary spread of hours (excess travel) are to be compensated by the provision of TOIL.

9.2 The amount of compensation under clause 9.1:

- (a) is calculated on the time taken for the official travel less the time the employee would usually spend travelling between their residence and usual workplace; and

**Example:**  
(based on 6am-6pm spread of hours)

Start of travel	End of travel	Out of hours travel	Usual travel time	Excess travel time
5:00am	7:00am	1 hour	30 minutes	30 minutes
5:00am	6:00am	1 hour	30 minutes	30 minutes
6:00pm	8:00pm	2 hours	30 minutes	1 ½ hours

- (b) is calculated to the nearest quarter hour, provided that the minimum claim is 30 minutes (i.e. no compensation is due where excess travel is less than 30 minutes) and the maximum is eight (8) hours in any one calendar day.

Example:

Excess travel time	Rounded time	Compensation
20 minutes	15 minutes	Nil (rounded time is less than 30 minutes)
25 minutes	30 minutes	30 minutes

- 9.3 Claims for TOIL under clause 9.1 must be supported by documentation acceptable to the chief executive, including detailing departure and arrival times.
- 9.4 Claims under clause 9.1 do not affect the employee's entitlement to travel allowances / expenses, meal allowances, vehicle allowances etc, where applicable.
- 9.5 TOIL is to be taken at a time convenient to the department and the employee and within 12 months of the date overtime was worked. Where agreement cannot be reached, the department may direct the employee when the TOIL is to be taken.
- 9.6 Unused TOIL will be paid out at ordinary time rates after 12 months from the date overtime was worked where:
- (a) an employee has taken reasonable steps to avoid excessive TOIL balances; and
- (b) the employee has been refused an application to take such TOIL.

## GENERAL

### 10. Definitions

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

**CRS** means the Public Service Classification and Remuneration System. The monetary rate is the rate applicable for the department where the employee is employed.

**Equivalent TOIL** means time-off-in-lieu on a time for time basis.

**Field staff** means those employees identified as field staff in accordance with the ministerial Directive relating to field staff as issued or amended from time to time.

**Full overtime shift** means the same number of hours an employee is required to work on an ordinary day (e.g. clerical administrative officer 7.25 hours, field staff 7.6 hours).

**Industrial instrument** means an award, industrial agreement or certified agreement or decision of the Queensland Industrial Relations Commission.

**Ordinary spread of hours** has the definition prescribed in the *Queensland Public Service Award – State 2012*.

**Ordinary hours of work** are as specified in the applicable award, industrial agreement or certified agreement. Where no such hours are specified, the ordinary hours of work are to be the hours that were previously determined to apply or were worked by that class of employee immediately before the commencement of this Directive.

**Ordinary starting and ceasing time** means the starting and ceasing time authorised for an employee within the normal operating hours on any one day as determined by the chief executive (or delegate) of a department or work unit.

**Overtime** means additional work in excess of ordinary hours. On a public holiday (or substituted day) under the *Holidays Act 1983* – the term includes work in excess of ordinary hours, but excludes ordinary hours on a public holiday.

**Official travel** includes but is not restricted to time spent travelling to attend approved seminars and departmental courses which are undertaken by direction and to suit Departmental convenience, but does not include:

- travelling by an employee who is on duty at temporary headquarters to the employee's home for the weekend, holidays etc. for their own convenience and subsequent return to such temporary headquarters;
- travelling between an employee's home and normal place of work;
- travelling to undertake private business; or
- travelling outside Australia.

Official travel time is calculated based on the period of time which would reasonably have been taken by the most practicable direct route using approved means of transport OR the time actually involved, whichever is the lesser. Excess travel time includes time in transit, however wherever practicable travel arrangements should be made to minimise excess travel time.

## SCHEDULE ONE – OVERTIME MEAL ALLOWANCES

Situation	Entitlement
<b>On days with “ordinary starting or ceasing times”</b>	
(i) Where an employee is required to work for more than one (1) hour before or after his or her “ordinary starting or ceasing time”	(i) \$12.60 Allowance
(ii) Where an employee is required to continue or resume duty more than one (1) hour after his or her “ordinary ceasing time” AND cannot reasonably be expected to return to his or her residence for a meal	(ii) \$21.00 Allowance - only where an unpaid meal break of 45 minutes has been taken Where an employee in (ii) does not take the 45 minute unpaid break, either by their election or by mutual agreement in accordance with clause 6.2.1 of the <i>Queensland Public Service Award – State 2012</i> , the \$21.00 Allowance will not be paid and clause (i) will be applied.
<b>On days other than those with “ordinary starting and ceasing times” (i.e. non-working days including public holidays)</b>	
(i) Where an employee is required to work for more than four (4) hours overtime OR	(i) \$12.60 Allowance
(ii) Where an employee is required to continue or resume duty more than one (1) hour after completing four (4) hours overtime, AND cannot reasonably be expected to return to his or her residence for a meal  AND (if applicable)	(ii) \$21.00 Allowance - only where an unpaid meal break of 45 minutes has been taken Where an employee in (ii) does not take the 45 minute unpaid break, either by their election or by mutual agreement in accordance with clause 6.2.1 of the <i>Queensland Public Service Award – State 2012</i> , the \$21.00 Allowance will not be paid and clause (i) will be applied.
(iii) Where the employee continues or resumes duty for more than one (1) hour after completing a “full overtime shift”, AND cannot reasonably be expected to return to his or her residence for a meal	(iii) A further \$21.00 Allowance – only where an unpaid meal break of 45 minutes has been taken
<b>Examples:</b> A clerical employee ordinarily works Monday to Friday. <ul style="list-style-type: none"> <li>If the employee stays back for an hour and a half after “ordinary ceasing time” on a Wednesday they will receive \$12.60 Allowance.</li> <li>If the employee stays back for 4 hours after “ordinary ceasing time” on a Thursday, without a break of 45 minutes, they will receive \$12.60 Allowance. If they take an unpaid break of 45 minutes, and cannot reasonably be expected to go home and have a meal, the Allowance will be \$21.00.</li> <li>If the employee works overtime for 5 hours on the Saturday, they will receive \$12.60 Allowance.</li> <li>If the employee works a full day (7.25 hours) worth of overtime on the Sunday, without a break of 45 minutes, they will receive \$12.60 Allowance. If they take an unpaid break of 45 minutes, and cannot reasonably be expected to go home and have a meal, the allowance will be \$21.00.</li> <li>If the employee is asked to stay back and work further overtime after having worked a full day (7.25 hours) worth of overtime on the Sunday, depending on whether they have an unpaid lunch break, they will receive either \$12.60 or \$21.00 PLUS a further \$21.00 (on the condition they have an unpaid 45 minute dinner break).</li> </ul>	