

DIRECTIVE 02/20

Supersedes: N/A

Minister for Industrial Relations Directive: **Recognition of Previous Service for Employees of Queensland Corrective Services who have Transitioned from Engaged Service Providers**

This text box does not form part of the directive

Under the *Human Rights Act 2019* decision makers have an obligation to act and make decisions in a way that is compatible with human rights, and when making a decision under this directive, to give proper consideration to human rights.

1. Purpose:

To prescribe the entitlements for recognition of previous service and employment when a person is appointed or engaged to work in Queensland Corrective Services and the Queensland public service, after transitioning from an engaged service provider.

2. Effective Date: 29 May 2020

3. Legislative authority:

Sections 53 and 54(1) of the *Public Service Act 2008*.

Sections 51 and 52 of the *Public Service Act 2008* apply if there is a conflict with an Act, regulation or industrial instrument.

4. Application:

This Directive applies to public service employees who have been appointed or engaged to work in Queensland Corrective Services:

- who are corrective services officers appointed under the *Corrective Services Act 2006*; and
- who were employed by an engaged service provider at the Arthur Gorrie Correctional Centre or at the Southern Queensland Correctional Centre and who become employed by Queensland Corrective Services on the transition date.

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5. Entitlement

- 5.1. Employees covered by this directive are entitled to recognition of previous service and entitlements as prescribed by this directive.
- 5.2. A transitioning employee is eligible to have their previous service and entitlements with a former employer recognised under this directive if they were employed by a former employer and have not had a break in service of more than three months between their employment with a former employer and commencing their employment with Queensland Corrective Services.

- 5.3 Nothing in this directive entitles a transitioning employee to claim the benefit of a right or entitlement more than once for the same period of service.

6. Definitions

- 6.1 **“employee”** means a public service officer appointed under section 119 of the *Public Service Act 2008* (the Act); a general employee employed under section 148(2)(a) of the Act; a temporary employee employed under section 147(2)(a) of the Act or a casual employee employed under section 147(2)(b) or section 148(2)(b) of the Act; and who are corrective services officers appointed under the *Corrective Services Act 2006*.
- 6.2 **“engaged service provider”** means an entity previously engaged by the State of Queensland to assume responsibility for the operation and management of the Arthur Gorrie Correctional Centre, or the Southern Queensland Correctional Centre, service with which as a former employer is being recognised under this Directive.
- 6.3 **“former employer”** means the engaged service provider that was the employer of the transitioning employee prior to the transition from Arthur Gorrie Correctional Centre, or the transition from Southern Queensland Correctional Centre, to Queensland Corrective Services for which service is being recognised, and includes a predecessor of a former employer where there was a transmission of business or change in the corporate identity of the engaged service provider and both the previous and successor employers were an engaged service provider.
- 6.4 **“previous employment”** means employment with a former employer of a transitioning employee that is recognised under this directive.
- 6.5 **“transition date”** means the date on which the transitioning employee commences employment with Queensland Corrective Services, provided there is no break in service exceeding three months between their previous employment with a former employer and their employment with Queensland Corrective Services.
- 6.6 **“transitioning employee”** means an employee who was employed by a former employer who commences employment with Queensland Corrective Services within three months of their employment with the former employer ceasing due to the State of Queensland assuming responsibility for the operation and management of the Arthur Gorrie Corrective Centre or the Southern Queensland Correctional Centre.

7. Entitlement on appointment – leave

- 7.1 To the extent provided in this Directive, the previous employment of a person to whom this directive applies with a former employer is to be counted for the purposes of calculating –
- (a) annual leave accumulation and entitlement;
 - (b) sick leave accumulation and entitlement;
 - (c) long service leave accumulation and entitlement; and
 - (d) paid parental leave.
- 7.2 Where a transitioning employee had an entitlement to annual leave as at the date of ceasing duty with the former employer and has received payment of a cash equivalent on termination of employment from the former employer, the transitioning employee is not entitled to claim annual leave accruals or payment from Queensland Corrective Services for the same period of service.
- 7.3 Where a transitioning employee had an entitlement to long service leave as at the date of ceasing duty with the former employer and has received payment of a cash equivalent on termination of employment from the former employer, the transitioning employee is not entitled to claim long service leave accruals or payment from Queensland Corrective Services for the same period of service.
- 7.4 Where the transitioning employee has been paid a cash equivalent of any portion of accrued sick leave as at the date of ceasing duty with the former employer, the payment must be taken into

consideration in determining any entitlement to be transferred to Queensland Corrective Services. That is, the transitioning employee is not entitled to claim sick leave accruals or payment from Queensland Corrective Services for the same period of service.

- 7.5 The recognition of previous casual employment is limited to determining service for long service leave and paid parental leave purposes only.

8. Entitlement on appointment – salary payable

- 8.1 Subject to the provisions of any relevant industrial instrument, the chief executive will count the previous employment of a transitioning employee with a former employer for the purpose of calculating salary payable (i.e. classification and paypoint).
- 8.2 Translation for correctional employees' classifications will be to the closest equivalent classification and salary level to the current role, service and qualification (if relevant) of each transitioning employee.
- 8.3 Translation for Administrative Officers, Professional Officers and Operational Officers roles will be to the next nearest paypoint within the same classification level as the transitioning employee's salary at the transition date.
- 8.4 Notwithstanding clauses 8.2 and 8.3 above, Queensland Corrective Services will maintain the salary of any transitioning employees who, at the transition date, were being paid by the former employer at a rate higher than the relevant classification and salary rate that they are translated to. That salary maintenance will continue until the Queensland Corrective Services payrates catch up to the higher rate.

9. Probation

- 9.1 A transitioning employee will not be required to complete a period of probation with Queensland Corrective Services, unless at the transition date they were within a probation period with a former employer. The probation period will continue and they will be required to complete the balance of the probation period with Queensland Corrective Services.

10. Waiving of further qualifying period – long service leave

- 10.1 A transitioning employee given recognition of previous employment and who has been paid a cash equivalent of long service leave by the former employer is not required to complete any further qualifying period in order to be granted long service leave.

11. Annual Leave, Long Service Leave and Sick Leave

11.1 Information requirements

Recognition of a transitioning employee's previous employment for annual leave, long service leave and sick leave purposes is to be based on the following information obtained from that transitioning employee's former employer –

- (a) details of service, including but not limited to the date of commencement, positions held and remuneration and classification levels held by the transitioning employee throughout their employment with the former employer;
- (b) details of annual leave accumulated balance;
- (c) details of any cash equivalent of annual leave paid at the date of termination;
- (d) details of sick leave accumulated balance;
- (e) details of any cash equivalent of sick leave paid at the date of termination;
- (f) details of any long service leave accumulated balance;
- (g) details of any cash equivalent of long service leave paid at the date of termination;
- (h) details of any undertakings given in relation to the non-acceptance of a cash equivalent of long service; and

(i) details of any special leave without salary granted together with the reasons for such leave.

11.2 The accruals and balance of long service leave will be in accordance with the above for the previous employment to the transition date, despite the operation of Directive 11/18 Long Service Leave, which will apply with the relevant industrial instruments from the commencement of employment with Queensland Corrective Services on the transition date.

11.3 Calculation of entitlements

Entitlements for this Directive are to be calculated by applying the following formula:

$$E = (S \times AR) - LT$$

Where –

E = entitlement

S = years of service

AR = accrual rate applicable to appointed position

LT = leave taken

The accrual rate for sick leave is 10 days per year of service. The accrual rate for long service leave is 0.86667 weeks per year of service with a former employer, up to the transition date. The accrual rate for long service leave after the transition date will be as per the transitioning employee's entitlement to long service leave as a public service employee.

The accrual rate for annual leave will be as per the transitioning employee's industrial instrument with the former employer.

11.4 Accruals Conversion for Administrative Officers, Professional Officers

Administrative Officers and Professional Officers transitioning from a former employer to Queensland Corrective Services are moving from 38 ordinary weekly working hours to 36.25 ordinary weekly working hours. Leave balances for Administrative Officers and Professional Officers will be recognised and converted on the basis that 1 week of 38 hours or 1 day of 7.6 hours with a former employer will become 1 week of 36.25 hours or 1 day of 7.25 hours with Queensland Corrective Services.

12. Paid parental leave

12.1 Where a transitioning employee has service recognised for long service leave and/or sick leave purposes under this directive, service shall also be recognised for the purposes of the qualifying period under the Ministerial Directive titled *Paid Parental Leave*.

13. Continuing parental leave

13.1 Employees on periods of parental leave from their employment with a former employer who are offered and accept employment with Queensland Corrective Services from the transition date, will have their periods of parental leave recognised and continued.

13.2 Transitioning employees on parental leave shall have all of the return to work rights and entitlements for parental leave as if the parental leave had been approved by and taken with Queensland Corrective Services.

14. More than one former employer/s

14.1 No service prior to the most recent period of service with the former employer is to be recognised, unless as provided for in 14.2. A transitioning employee's most recent period of service with the former employer includes any period of continuous service which has not been broken by a period of three months or more.

- 14.2 In rare circumstances there may be more than one former employer. This would only occur where the person seeking recognition has been engaged by both of the defined former employers. Where there is more than one former employer, service with each of the former employers is to be recognised, provided there has been no break in service in excess of three months.