

1. Title: Temporary Employment

2. Supersedes: 19/97

3. Purpose: To maximise tenured employment by

- (a) setting appropriate circumstances for the engagement of temporary employees; and
- (b) prescribing departmental responsibility for the conversion of temporary employees to tenured status where a temporary employee has a continuous connection to a role over time.

4. Legislative

Provision: *Public Service Act 2008* - sections 53, 147, 148, 149 and 194(1)(e).

5. Effective date: 1 December 2008

6. Application:

- (a) This Directive applies where a chief executive employs a person as a temporary employee on a full-time or part-time basis as provided for under Section 147 or Section 148 of the *Public Service Act 2008*.
- (b) This Directive does not apply where a chief executive employs a person on a casual basis under Section 147 or Section 148 of the *Public Service Act 2008*.

7. Directive:

7.1 **Appropriate use of temporary employment**

- (a) Chief executives may employ a person as a temporary employee to meet temporary circumstances.
- (b) All requirements of the directive relating to recruitment and selection must be met for temporary vacancies above entry level.
- (c) Circumstances where temporary employment may be appropriate include but are not limited to –
 - (i) Temporary and/or urgent demand for particular skills for a period limited by time, whether or not the time has been fixed;
 - (ii) The evolution of a tenured role during which knowledge and skill requirements are expected to undergo a period of transition;
 - (iii) Fluctuating service delivery needs or temporary increases in workload;
 - (iv) Roles which are funded for a specified period with no reasonable anticipated renewal of funding;
 - (v) A one-off project or specified body of work which will be completed within a finite timeframe;

- (vi) Replacement of employees who are absent on leave and who are expected to return to the role on the completion of that leave;
 - (vii) Temporary vacancies arising from the temporary reassignment or secondment of employees; and
 - (viii) Temporary filling of a vacant role prior to the approval of a tenured appointment.
- (d) For each separate period of engagement the temporary employee is to be provided with a letter of engagement that, as a minimum, includes -
- (i) The circumstances/specified task(s) that require the temporary engagement;
 - (ii) The duration of the period of engagement, including the commencement and completion dates;
 - (iii) Notification that temporary employment does not constitute appointment to a tenured role or position;
 - (iv) Details of the circumstances in which the temporary engagement may be terminated and the notice period for termination by either party;
 - (v) Information about relevant remuneration and conditions. This is to include specific reference to requirements of the directive on retrenchment of temporary employees engaged on a full time or part time basis;
 - (vi) Details of any applicable probation requirements; and
 - (vii) A copy of the relevant role description.

7.2 Review of temporary employment status

- (a) Under the current directive relating to recruitment and selection, agencies have the discretion to convert entry-level temporary employees to tenure at any time and above entry-level temporary employees to tenure once eligibility requirements have been met.
- (b) Once a temporary employee completes three continuous years of service in the same role, the agency must conduct a review of the temporary status of the employee with the aim of converting them to tenured status wherever feasible.
- (c) The review of temporary status referred to at (b) above shall also apply to non-continuous service where a temporary employee has performed a cumulative total of three (3) years service in the same role, provided that the breaks in employment do not exceed a total of three (3) months in the previous three (3) year period.
- (d) A temporary employee does not need to be employed in the same position in order to be eligible. Continuous service in the same role includes a role which is essentially the same .

Example of a role which is essentially the same is ---

a Payroll Officer who may, over the period of temporary employment, provide service to different client groups.

Rotation through a range of duties within a generic role description also constitutes service in the same role

Example of a range of duties constituting same role ---

rotation through financial and payroll processing duties under a generic entry-level role description.

- (e) The review must result in the conversion of the temporary employee to tenured status at level where:

- (i) The temporary circumstances no longer exist and the role performed by the temporary employee is ongoing; and
 - (ii) For above entry-level temporary employees, engagement was in accordance with requirements for notifying vacancies under the directive relating to recruitment and selection.
- (f) Within 28 calendar days of the employee becoming eligible for conversion the review must be finalised and the temporary employee notified in writing of the decision. Where there is a decision not to convert the temporary employee to tenured status, written notification must include the reasons for non-conversion.
- (g) Where the review does not result in the conversion of the temporary employee to tenured status and the employee continues in the role on a temporary basis, the employee is to have his or her employment status reviewed again on the completion of each additional three (3) years continuous service. However, the employment status of the employee should, in the interests of fairness and efficient employee management, be reviewed at the end of 12 months after a decision to extend the temporary employment as a result of the mandatory review.
- (h) Conversion of a temporary employee to tenured status at level may occur only with the employee's consent.

7.3 Appeals

An employee who is eligible to be converted may lodge a fair treatment appeal directly with the Commission Chief Executive in relation to:

- (a) Failure of the agency to conduct a mandatory review as required under section 7.2 of this Directive; or
- (b) A decision by the agency not to convert the employee to tenured status at level under section 7.2 of this Directive.

7.4 Transitional arrangements

- (a) An initial transition period of 12 months will apply from the effective date of this Directive.
- (b) During the transition period a department must review the employment status of all of its eligible temporary employees.
- (c) Within one month of the expiry of the transition period the review must be finalised and the temporary employees notified as per the provisions of 7.2(f) and (g) of this Directive.
- (d) The requirements of 7.2(e)(ii) do not apply during the transition period or to employees who are eligible to be converted during the transition period and maintain continuous employment in the role.
- (e) The 28 day review and notification period under section 7.2(f) and associated appeal rights under 7.3(a) do not apply.