

ATTORNEY-GENERAL AND MINISTER FOR INDUSTRIAL RELATIONS

DIRECTIVE No. 24/10
December 2010

In accordance with section 52(3) of the *Public Service Act 2008* and section 687(3) of the *Industrial Relations Act 1999*, this Directive prevails over an industrial instrument to the extent of any inconsistency except in circumstances where the industrial instrument provides for conditions in excess of this Directive. Industrial instrument means an award, certified agreement or decision of the Queensland Industrial Relations Commission. This Directive prevails over other Ministerial Directives to the extent of any inconsistency.

- 1. TITLE:** **Critical Incident Entitlements and Conditions**
- 2. PURPOSE:** To prescribe the entitlements and conditions for specified public service employees in critical incident circumstances prescribed in paragraph 2 of Schedule A.
- 3. LEGISLATIVE PROVISION:** Section 54(1) of the *Public Service Act 2008*.
Section 687 of the *Industrial Relations Act 1999*.
- 4. APPLICATION:** This Directive applies to “public service employees”, as defined in section 9 of the *Public Service Act 2008* and covered by:
 - *Queensland Public Service Award - State 2003*; or
 - *Employees of Queensland Government Departments (Other Than Public Servants) Award - State 2003*; or
 - *Building Trades Public Sector Award - State 2002*; or
 - *Civil Construction, Operations and Maintenance General Award - State 2003*; or
 - *Conservation, Parks and Wildlife Employees’ Award - State Government 2003*; or
 - *Engineering Award - State 2002*.
- 5. STANDARD:** The entitlements and conditions prescribed in the schedules apply.
- 6. EFFECTIVE DATE** This Directive is to operate from **20 December 2010**
- 7. VARIATION:** This Directive can be varied by –
 - The Minister responsible for industrial relations; or
 - Legislation.
- 8. SUPERSEDES:** Directive 3/08 “Critical Incident Entitlements and Conditions”
- 9. PREVIOUS REFERENCES:** Directive 1/08 “Critical Incident Entitlements and Conditions”
- 10. SEE ALSO** Directives on:
 - Overtime Meal Allowances;
 - Domestic Travelling and Relieving Expenses;
 - Motor Vehicle Allowances;
 - Hours and Overtime;
 - Higher Duties;
 - Field Staff.

SCHEDULE A

CRITICAL INCIDENT ENTITLEMENTS AND CONDITIONS

GENERAL CONDITIONS

1. Requirement

This Directive operates in conjunction with relevant industrial instruments and Ministerial Directives as amended from time to time including:

Queensland Public Service Award - State 2003; or

Employees of Queensland Government Departments (Other Than Public Servants) Award - State 2003; or

Building Trades Public Sector Award - State 2002; or

Civil Construction, Operations and Maintenance General Award - State 2003; or

Conservation, Parks and Wildlife Employees' Award - State Government 2003; or

Engineering Award - State 2002; and

Directives on:

- Overtime Meal Allowances;
- Domestic Travelling and Relieving Expenses;
- Motor Vehicle Allowances;
- Hours and Overtime;
- Higher Duties;
- Field Staff.

This Directive prevails over industrial instruments and other Ministerial Directives to the extent of any inconsistency.

2. When the entitlements under this Directive apply

This directive only applies to employees identified by the relevant chief executive as performing work essential to the resolution of the critical incident or Emergency Management Queensland (EMQ) activation.

Employees who are identified as per the above requirement are to be remunerated in accordance with Schedules B, C and D, only:

- (a) when a critical incident situation is determined to exist by the Minister

responsible for emergency services or the Assistant Director-General of Emergency Management Queensland, or is declared under the *Disaster Management Act 2003*, the *Public Health Act 2005*, the *State Transport Act 1938* or the *Public Safety Preservation Act 1986*, **OR**

- (b) where, subject to the provisions of this Directive, approval to apply this Directive has been obtained from the chief executive of the department responsible for industrial relations, **OR**

- (c) where the Director-General, Department of Community Safety declares an EMQ activation.

3. Approval to apply this Directive

3.1 The chief executive of a government department or public service office may seek approval from the chief executive of the department responsible for industrial relations. This approval may be sought prior to, during or after the critical incident event has occurred.

3.2 Approval only applies to critical incidents identified in the department or public service office's Business Continuity Plan (BCP) or plans.

The chief executive of the department responsible for industrial relations will determine the conditions of approval.

3.3 Approval will not be granted to address disruption to business as a result of lawful or protected industrial action.

3.4 Approval will allow a department or public service office to invoke this Directive when the Disaster Recovery Co-ordinator (DRC) or equivalent designated position within the department or public service office, has determined it necessary to activate the contingency actions and/or crisis management plan/s.

3.5 The approval application must include a copy from the BCP where those critical incidents are identified.

3.6 The department or public service office may, at any time, update the documentation within their business continuity plan and re-apply for a subsequent approval.

4. Duration for application of this Directive

4.1 **Start date** of the application of this Directive is:

- (a) the date when a critical incident situation is determined to exist by the Minister responsible for emergency services or the Assistant Director-General of Emergency Management Queensland, or when a critical incident situation is declared under the *Disaster Management Act 2003*, the *Public Health Act 2005*, the *State Transport Act 1938* or the *Public Safety Preservation Act 1986*, **OR**
- (b) the date determined by the chief executive of a department or public service office with approval to apply this Directive, **OR**
- (c) the date determined for the commencement of an EMQ activation.

4.2 **End date** of the application of this Directive is no later than 45 days after the start date.

In the case of an application approved under section 3 of this Directive, the chief executive should end the application of this Directive as soon as the chief executive is satisfied it is no longer necessary to apply it or on the date of cessation as determined by the chief executive of the department responsible for industrial relations.

4.3 The application of this Directive to a particular critical incident may be extended past the end date specified in clause 4.2 by the chief executive of the department or public service offices performing work essential to the resolution of the critical incident.

4.4 Chief executives shall advise the chief executive of the department responsible for industrial relations of the extension of this Directive and the proposed end date.

4.5 Chief executives of the departments or public service offices utilising

entitlements under this Directive must advise affected employees when this Directive no longer applies to the particular critical incident and entitlements are to cease.

5. Definitions

5.1 **“critical incident”** includes any event requiring swift, decisive action by the State in response to and recovery from such even, and occurring outside of the normal course of routine business activities. A critical incident may be naturally occurring or cause by human acts or omissions.

5.2 **“critical incident conditions”** are those conditions which cause serious disruption to basic services in a community and place abnormal strain on resources and expertise to mitigate the adverse effects of the event.

5.3 **“essential position”** means a position considered by the chief executive of the relevant department or public service office as vitally important or absolutely necessary, directly or indirectly, in resolving a critical incident.

5.4 **“field staff”** means those employees identified as field staff in accordance with the Ministerial Directive on Field Staff.

5.5 **“flexitime”** means a system where employees utilise an organisational accrued time working time arrangement made in accordance with Schedule 5 of the *Queensland Public Service Award - State 2003*.

5.6 **“headquarters”** means the employee's usual employment site.

5.7 **“lawful industrial action”** means, for the purpose of this Directive, refusal to work in accordance with s 241 of the *Industrial Relations Act 1999*.

5.8 **“overtime”** for employees **other than** those working flexitime under the *Queensland Public Service Award - State 2003*, means all authorised work in excess of ordinary working hours or outside the ordinary spread of hours as defined in:

- *Queensland Public Service Award - State 2003*; or,
- *Employees of Queensland Government Departments (Other Than Public Servants) Award - State 2003*; or,
- *Building Trades Public Sector Award - State 2002*; or,
- *Civil Construction, Operations and maintenance General Award – State 2003*; or

<ul style="list-style-type: none"> • <i>Conservation, Parks and Wildlife Employees' Award – State Government 2003</i>; or, • <i>Engineering Award – State 2002</i>. <p>5.9 “overtime” for employees working flexitime under the <i>Queensland Public Service Award – State 2003</i> means all authorised work in excess of 36.25 hours per week, 7.25 hours per day or outside the spread of 6:00am to 6:00pm Monday-Friday.</p> <p>5.10 “protected industrial action” means, for the purpose of this Directive, refusal to work in accordance with s 174 of the <i>Industrial Relations Act 1999</i>.</p> <p>5.11 “temporary headquarters” means during a critical incident the employee’s temporary employment site or the site where employees assemble to travel to and from the site of the impact. The location of an employee’s temporary headquarters may change during the critical incident.</p>	<p>5.12 “TOIL” means time off in lieu of paid overtime on a time for time basis; OR in accordance with the basis of time off for time worked provided in the relevant:</p> <ul style="list-style-type: none"> • award; • certified agreement; or • department’s hours of work arrangements made pursuant to the award. <p>5.13 “EMQ Activation” is where the Director-General, Department of Community Safety declares an emergency situation exists and that situation is of such significance that it requires employees of Emergency Management Queensland and, if required, other Divisions of the Department of Community Safety to work extended hours and/or temporary shift work to meet operational demands in preparing for and responding to the situation.</p>
---	--

SCHEDULE B
CRITICAL INCIDENT ENTITLEMENTS AND CONDITIONS

OVERTIME ENTITLEMENTS

<p>6. Overtime</p> <p>6.1 Employees (including field staff) who are in receipt of a salary which does not exceed the full-time equivalent of AO8 paypoint 4, shall be paid overtime or credited time off in lieu (TOIL).</p> <p>6.2 Overtime payments will be based on the salary the employee is receiving during the critical incident up to and including AO8 paypoint 4.</p> <p>6.3 For the purposes of invoking this Directive, employees will elect whether they will be paid overtime or credited with TOIL.</p> <p>6.4 During application of this Directive flexitime arrangements are suspended for employees receiving entitlements under this Directive.</p> <p>6.5 Paid overtime or credited TOIL is calculated up to the cessation of duty at the employee’s headquarters or temporary headquarters.</p>	<p>7. Recording compensation for Overtime</p> <p>7.1 Departments or public service offices must record TOIL for overtime worked under critical incident events.</p> <p>7.2 TOIL will be recorded against each critical incident event where more than one critical incident occurs per financial year period i.e. 01 July to 30 June.</p> <p>7.3 Each event record will show all TOIL credited throughout the duration of the event.</p> <p>8. Claim for compensation for Overtime</p> <p>8.1 No claim for overtime is to be approved where an employee elects to work solely for his or her own benefit or convenience.</p> <p>8.2 Departments or public service offices are to ensure that employees credited with TOIL under this Directive are provided with the opportunity to take off all time accrued within six months of the end date of application to which this Directive applies.</p>
--	---

<p>8.3 Employees must also make a reasonable attempt to take the TOIL.</p> <p>8.4 The taking of TOIL by an employee will be by mutual agreement between the employer and the employee. In all cases it will be subject to organisational convenience.</p>	<p>9. Unused Critical Incident TOIL</p> <p>9.1 If, after six months from the end date of the application of this Directive, employees have not taken all the TOIL credited for the particular critical incident event, then all unused TOIL accrued during that event will be paid out.</p> <p>9.2 TOIL will be paid at time and a half (ordinary time plus half ordinary time) at the employee's salary rate actually paid on the last day of the employee's engagement on the critical incident event.</p>
---	---

SCHEDULE C

CRITICAL INCIDENT ENTITLEMENTS AND CONDITIONS

HIGHER DUTIES

<p>10. No requirement for minimum period of duty for payment at the higher rate.</p> <p>When this Directive applies, an employee directed to assume the duties and responsibilities of an essential position at a higher classification level is to be remunerated at the higher rate.</p> <p>There is no requirement to assume the higher duties for a minimum period of time before the higher rate is payable.</p>	
--	--

SCHEDULE D

CRITICAL INCIDENT ENTITLEMENTS AND CONDITIONS

DOMESTIC TRAVELLING AND RELIEVING EXPENSES

<p>To be read in conjunction with the Directive on Domestic Travelling and Relieving Expenses.</p> <p>11. Application of the Directive on Domestic Travelling and Relieving Expenses</p> <p>Any employee working under critical incident conditions is to receive the same entitlements and allowances as prescribed in the Directive on Domestic Travelling and Relieving Expenses if:</p> <p>(a) the employee has been directed to work under critical incident conditions and then, due to occurrences beyond the employee's control (eg road closures), the employee is unable to reach their place of residence or because it is impractical for the employee to return to their place of residence; OR</p>	<p>(b) the employee has been directed to work under critical incident conditions, but has been directed not to travel to and from their place of residence because of the unacceptable level of risk for the employee.</p> <p>12. Hardship Allowance</p> <p>Where an employee is entitled to the benefits of the Directive on Domestic Travelling and Relieving Expenses (including employees entitled under clause 11 of Schedule D), an additional hardship allowance of \$47.05 per night is payable where the employee is required to perform duties under critical incident conditions and has no choice other than to utilise accommodation below the 3 star rating used in RACQ accommodation directories.</p>
--	--