

## Minister Assisting the Premier Directive: Temporary Employment – End of Contract Payment

### 1 Purpose:

To detail the conditions for a payment to temporary employees whose employment ceases in certain circumstances.

**2 Effective date:** 09 August 2013

### 3 Legislative Provision:

Sections 54, 147(4) and 148(4) of the *Public Service Act 2008*.

### 4 Application:

This directive applies to employees:

- engaged on a temporary basis under sections 147(2)(a) and 148(2)(a) of the *Public Service Act 2008* (PSA); **and**
- who, as at the date of this directive, are covered by an industrial instrument that guarantees severance payments for temporary employees; **and**
- who can objectively and reasonably be regarded as having an expectation of extension or renewal of their temporary engagement.

This directive does not apply to tenured employees, casual employees or to temporary employees genuinely engaged for a specific period or task (including but not limited to projects or backfilling).

### 5 Previous References:

Directives 19/97 (Part 6), 25/99 and 18/01

### 6 Related Information:

- Continuity of service provisions under section 71 of the *Industrial Relations Act 1999*
- Notice provisions of the *Industrial Relations Act 1999*
- Directive relating to long service leave
- Queensland Industrial Relations Commission "Termination, Change and Redundancy Statement of Policy"

### Directive:

### 7 Separation payment for temporary employees

7.1 A temporary employee whose engagement is terminated prior to their nominated contract end date **OR** who is not offered an extension or renewal of their contract is entitled to a separation payment in accordance with this directive, provided:

- (a) the employee has completed a minimum of 12 months continuous service in the role

they are separating from, during which time the employee's initial engagement has been extended or renewed several times; and

- (b) the termination or non-extension / renewal is not as a result of poor performance or for discipline reasons.

7.2 An employee eligible under clause 7.1 is to receive a separation payment of two weeks' full-time pay per full-time equivalent year of service and a proportionate amount for an incomplete year of service paid at the employee's appointed level. All service with the same employer is to be counted in determining the separation payment which is to be paid at the classification level the employee was appointed to at the end of the engagement.

- (a) The minimum separation payment is four weeks' pay, and the maximum is 52 weeks' pay, provided that no employee will receive less than the severance payment under the Termination, Change and Redundancy Statement of Policy issued by the Queensland Industrial Relations Commission.

7.3 Employees who hold two or more part-time jobs will be entitled to a separation payment calculated only on the proportion of full-time equivalent years of service applicable to the part-time position from which they are separating under this directive.

## 8 Re-engagement

- 8.1 A person who has received a separation benefit and is subsequently re-engaged by the same employer as a consultant, contractor or employee for a total (but not necessarily consecutive) period of more than 20 working days within the separation benefit period, is required to refund a portion of their separation payment to the Crown. The portion to be refunded is one day's separation payment for each day worked in excess of the 20 days.
- 8.2 A part-time employee who receives a separation payment for the loss of one part-time job and who retains another part-time job in the Queensland public service, shall be required to refund the portion of separation payment to which they are not entitled under clause 8.1 should they subsequently increase their part-time hours during the separation payment period with the same employer (whether the increase in hours is in the existing or a new role).

## 9 Dictionary

Unless otherwise defined, the terms in this directive have the meaning prescribed in the PSA.

**Continuous service** means continuity in the role in which the employee was last engaged.

Continuity is broken by engagement in a genuinely different role, for example a role at a different classification level for other than a short period of higher duties.

**Same employer** means:

- the same chief executive as defined in section 10 of the PSA; or
- the same head of a Public Service Office as defined by s21(2) of the PSA; or
- where a transmission of business or a machinery of government change has occurred, the successor chief executive or head of a public service office

**Separation payment period** is the period of time which equates to the payment of the separation payment expressed in weeks. Note: that this period does not include recreation leave, long service leave or the notice period.