

DIRECTIVE 08/16

Supersedes: 08/13

Minister for Employment and Industrial Relations 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: 8 January 2016

3. Legislative authority:

Sections 52, 54, 147(4) and 148(4) of the *Public Service Act 2008* and section 687 of the *Industrial Relations Act 1999*.

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 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.

5. Previous references:

- Directives 19/97 (Part 6), 25/99, 18/01, 3/11 and 8/13

6. Related Information

- Notice provisions of the *Industrial Relations Act 1999*
- Directive relating to long service leave

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7. Eligibility

7.1 A temporary employee whose engagement is terminated at the initiative of the employer 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 clause 8 of this Directive, provided:

- (a) the employee has completed a minimum of 12 months continuous service with the same employer;
- (b) the same employer has extended the employee's engagement beyond the initial period of their employment or has renewed the employee's engagement several times over a lengthy period; and
- (c) the termination or non-extension / renewal is not as a result of poor performance or for discipline reasons.

7.2 Where a temporary employee has had multiple different engagements with the same employer, **for the purpose of determining eligibility** only the last engagement will be taken into account.

7.3 Continuity of service provisions of the *Industrial Relations Act 1999* are to be applied.

8. Entitlement

8.1 An employee eligible under clause 7 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.

8.2 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.

8.3 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.

8.4 Where a temporary employee has had multiple different engagements with the same employer and is eligible under clause 7 of this Directive to receive a separation payment, **for the purpose of calculating the employee's separation payment** all service with the same employer is to be taken into account.

9. Re-engagement

9.1 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.

9.2 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 9.1 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).

10. Definitions

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.

Different engagement means a genuinely different role. For example, a role at a different classification level (engaged as an Administration Officer Level 3 and then as an Administration Officer Level 4) or at the same classification level where the roles are different (for example engaged as a finance officer and then as an IT help desk operator). It does not include short periods of higher duties where the employee returns to original temporary engagement.

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.